

(BRIEF-OF-EVIDENCE.)

Harry Scott, for plaintiff, testified as follows:

I am at present superintendent of Pinkerton's National Detective Agency at Syracuse, NY. In 1913, I was assistant superintendent of the Atlanta Office. Acting in behalf of the Plaintiff, I made the contract with the defendant. On the afternoon of April 26, 1913, I was called on the telephone by Mr. Frank who asked me to come down to the Pencil Factory, which I did, and we discussed the case as it had developed up to that time, after which he inquired as to our rates, and I told him that our rates were \$8 per day and expenses per man, and he told me he would have to get the consent of Mr. Sig Montag to pass on those rates, and later he joined me, and said that it was O.K., that Mr. Montag sanctioned his employing us and that the rates were satisfactory. In the line of that employment, the Pinkerton Agency undertook the investigation of the crime.

As assistant superintendent of the office of the Pinkerton's, I was in charge of most of the criminal work, and I conducted and instructed the operatives working on it. I put the men to work on the case.

The men who worked on the case for the Pinkerton Agency were L.P. Whitfield, W.D. McWorth, L.J. Sachry, F.C. Peace, R.C. Fisher and W.W. Hannan. There may have been a few others whom I don't just recall. Hannan was colored. Edward Lewis was another colored man working on the case.

Outside of Atlanta, the New York, St. Louis and Houston Offices did work on the case.

I worked on the case myself. The reports of the operatives were made to me as follows: They reported to me; their reports came to me for revision and sending to the clerk to be typewritten and sent to our clients. The reports were typewritten and sent to our clients.

The account attached to our petition is a correct bill of the time and expense incurred. The bill was rendered monthly. The charges on the bill for incidental expenses of all kinds are reasonable and correct.

I dictated all my reports to a stenographer on account of working late at night and not having the necessary time to sit down and write them out in long hand. The other reports that came from the operatives were written in long hand. All our operatives are required to write their reports in long hand and either send them through the mail or deliver them at the office. I have produced here and identified the original reports of these operatives.

These reports are edited before they are sent to the client. They are edited by the official that is handling the case. The official goes through and edits them and cuts out and surplus and immaterial matter.

We put forth our very best efforts in this case. We were employed to locate the murderer of Mary Phagan; not to convict or turn loose any particular individual. I worked constantly on this case during the time I have testified to I devoted all my time to it. The operatives that I have blamed were working under my direction.

I did not have any expressions of approval or disapproval of the character of service rendered, but we were led to believe that the services were entirely satisfactory. Even Mr. Rosser told me that he realized we were doing all that we could under the existing circumstances. No, I never heard any complaints at all, not until after the trial. I didn't hear any of them direct. As to why these bills were never paid, Herbert Haas was to send us a check within three or four days; that was before the trial, and we never got the check. Mr. Haas, we were led to believe, was the attorney for the National Pencil Company, and we were informed by Mr. Luther Z. Rosser, that he would pay the bills. I went to Mr. Rosser about the bills. He called Mr. Haas up in our presence, and said Pierce and I were there to get our money, and said we wanted to know what he was going to do about paying it, and then when Mr. Rosser hung up the phone, he told us to go over to see Mr. Haas about it. Mr. Rosser was representing Frank and I understood was special attorney in that particular case for the National Pencil Co. Herbert Haas, I was led to believe, was the attorney for the National Pencil Co. I went to Mr. Haas, for payment. Mr. Haas stated that he would send us a check in 3 or 4 days. He did not make any complaint about the services rendered to me.

As to my telling anybody when this investigation started, the direction in which it was leaning, I told Herbert and Leonard Haas both up in their offices in the 4th. National Bank Bldg. when Pierce and I went down to confer with them, (I believe it was about a week after Frank's arrest) we told them at that time that things looked pretty bad for Frank, and did they want us to continue on the case; and Herbert Haas, told us of course; that he wanted us to withhold our evidence from the police, and submit it to them first, before we would turn it into the police; and I told him rather than do that we would withdraw from the case; that we were going to cooperate with the police; and they told us to go ahead and find out, no matter if it hit Frank or not. I then proceeded with the investigation. Nothing but satisfaction was expressed to me or in my presence all the way through either by Luther Z. Rosser or Reuben Arnold, and of course Mr. Haas never did express himself to me.

Cross Examination:

I meant just now to give the impression that Mr. Haas wanted me to withhold my reports entirely from the police. That is exactly what he stated to me. He wanted us not to withhold our reports, but to withhold the evidence that we had gathered and submit it to him first, verbally or otherwise before we would turn it in to the police. Afterwards, he said yes, go ahead. We told him we would cooperate with the police as we always did in all criminal cases, working for public

justice alone. Yes, Mr. Haas requested me to turn out the evidence into him first. No, he did not say turn it in to me first. His words were, "Submit it to me." No, he did not say "first", not to my knowledge now, I don't recall whether he did or not. No, I can't recall that accurately. I would not infer that if he requested me to turn in the evidence to him "first" that he was perfectly willing for me to turn it over to the police second. The reason why I would not infer that is because we had a direct understanding in the first place that we would cooperate with the police entirely; and they would get the information as quick as we could naturally. I don't mean to have my evidence interpreted as meaning that Mr. Haas proposed that I was not to turn my evidence over to the police at all. He just told us to submit the evidence to him before turning it over to the police. Yes, he implied, surely he implied that I could turn it over to the police. As to his ever objecting to my turning it over to the police, he did in that one instance when he told us to withhold our evidence. I don't say that he said he wanted it turned very to him "first". I say he told us to submit our evidence to him "before" turning it over to the police. Certainly that implies that he expected me to turn it over to the police.

We were not limited in any way as to the scope of our investigation. We were told to find the guilty party by Mr. Haas, by Mr. Montag, by Mr. Rosser, and I heard absolutely nothing to the contrary.

We were told to submit our reports to Mr. Luther Z. Rosser. We furnished reports subsequent to June 17th. It was during the trial, while I was waiting here to appear as a witness the latter part of July and during August. The reports you have are the reports of the active work.

The practice in our office is to send our operatives out; they gather the evidence, come back to the office and write it out in their own handwriting, and they submit it to the man in charge who edits it. After it is edited, it is sent to clients, that constitutes the report. The file exhibited to me is the reports started on Apr. 28th. As to the process of editing, it is standard instructions with our officials to cut out all the surplus trimmings in a report; for instance, an operative will say: "I left the office and boarded a car and arrived at such and such a point at such and such a time, and entered a certain house"; we will cut that out, and say: "Left the office at such a time and arrived at this house at such and such a time", eliminating such surplus words as we don't think the client would care to read. In other words, giving the cold facts as they are turned in. The guide in this process is the officials' own mind as to what is material. If a certain fact was stated in an operative's report and it was omitted in the report to client, it would be evidence of the facts that in the mind of the official who edited the reports that the fact was immaterial. We don't cut out anything material. We send the net results to clients. Sometimes, what is apparently a trivial circumstance may develop eventually into the most serious circumstance. Our business is mostly in dealing with trivial

circumstances, that is, it starts as trivial. The evidence that we get out for is the details, small things that an average man might overlook.

The value of a detective's report depends on its accuracy. Accuracy is characteristic of all good detective work. It is essential that a detective, to be successful, must have close observation and a good memory. I have a fairly good memory. I can hold things in my head pretty well.

Some of the reports were edited by Superintendent H.B. Pierce and placed on my desk afterwards for perusal, but of course, either he or I always edited them as an official. The stenographer to whom the reports were dictated was an employee of our office. We used male stenographers. I never re-read the reports after dictating them. Some I would go over afterwards. Some I read over and some not. I think I went over all of these. That is my recollection.

In a case where I did not go over a report individually and it contained something of supreme importance, and, by error, the stenographer left it out, and the report went to the client with a very material suggestion omitted or misstated, due to the fact that I did not read it over, I would say that it might be an oversight on the part of the clerk in writing it, or it might be an oversight on my part. Both I and the clerk are employees of the plaintiff.

The brief outline of the main facts of the crime that we were employed to investigate is that on April 26-1913, which was Memorial Day, Mary Phagan left her home for the purpose of going to the National Pencil Co. factory and drawing her pay for that week. She left her home and never returned. Her body was found at 3 o'clock the next morning on the basement of the National Pencil Co's factory, about three or three-thirty, by the negro nightwatchman, named Newt Lee. He is the only one that discovered the body. It was immediately carried to the morgue, and was identified as being that of the girl, Mary Phagan, who had been missing from her home over night. The last person proven to have been seen with her was Leo M. Frank. He made a statement of his conversation with her at that meeting. As to what he said about knowing the girl or not, I don't believe he ever told me about knowing her. When Frank spoke to me on Monday, April 28th, he spoke of Mary Phagan coming into the office, as if he had no doubt about it or anything; he just stated: "Mary Phagan came to my office at such and such a time". As to whether or not he made the statement at the trial that he did not know her, I was not present during his testimony. It was a point of contention in the case as to whether he did or did not know Mary Phagan. That was one of the points at issue. No, I would not say that it was a circumstance indicating guilt, if he denied that he knew the girl and it was afterwards proven that he did know her.

The reason the Pinkerton's National Detective Agency furnished these reports was to give our clients the information we had obtained; also to account for the bill that was rendered showing the actual work that

was done, the time consumed each day. It is our system to give daily reports. Some agencies do not, and make only one final report, but this is not the practice of the Pinkertons. I understood that these reports I sent were to be used and examined and they were made in order to keep the client informed. It is of the essence of information of that kind that it be accurate. I knew that the attorneys in the case were relying on that to a great extent in taking their position.

I was present at the Coroner's Inquest and testified. I took place the first week in May. I was present at most of the trial in August. I was in and around there, but, of course, the witnesses were excluded. I heard a portion of the argument of the Solicitor General, very little of it.

The Solicitor General would never let me get my hands on the original murder notes, and, consequently I don't know anything about them. I never saw the originals. The only thing I had to go by was the reproduction of them in the newspapers. They were claimed to be notes that were found by the body of Mary Phagan purporting to have been the writing of Mary Phagan herself. I don't know to whom they purported to have been written. I never did examine them. I didn't pay any attention to the pamphlet that you got out. That was the only thing I saw that was connected with those notes. (I have been in the business of a detective about 10 years. I am 29 years old and consider myself successful in my profession, by the promotions I have been getting.) There could hardly have been any clue more important in the case than these murder notes. They were very important. They were the most important clue that developed. On anything dealing with those notes, my report should have been accurate. Anything pertaining to those notes was very important. It was very important who wrote them. As to what was my theory as to who wrote the notes, I never saw them and never knew the full contents of any of them during my investigation, and I can not theorize on them when I don't even know verbatim what those notes contained. No, I never formed a theory. I am not a theorizer. We work on theories, but I don't theorize. I suppose a whole lot of things, but I don't put them down in writing until we get some facts to back them up. We always try to get facts. As to what part the authorship of the notes played in determining guilt or innocence, never having had the notes or knowing the full contents of them, I will not theorize on them. I will state that I thought the specimen of handwriting obtained from the newspapers, the reproduction of the handwriting, was so important in my mind, that I instructed men to go over to the Pencil Factory and obtain specimens of the handwriting of the past and present employees of that company, including the negroes. That is how important I considered that clue. I was looking for the author of those notes.

I read the majority of the newspapers during the trial. Certainly I considered it a part of my duty to keep up with what was going on in the newspapers. I read them every day. Most of them from the time I was employed.

The established policy of the plaintiff in dealing with crime in its relations with the local police is to cooperate with the State and County authorities to the fullest extent and work with them in the interest of public justice. That policy prevails in all our offices and has been the policy of the company from the first. The policy is followed because we are working with the local authorities with the same object in view. If any conflict arises between us and the local authorities, men will be working on such conflict to settle out which is right and which is wrong, and we will go and convince the police they are wrong. We go absolutely and convince the police. We try to. As to our failing, we have never failed in any criminal case that we had the facts on. Not in any case where we have had the absolute facts. We don't always have the absolute facts. In that case there is no conflict. There is no conflict where the facts are uncertain. There is no friction between the police and ourselves. We don't split hairs or anything like that. If after studying the facts of a case, a Pinkerton man came to an honest conclusion that conflicts with the police, we would take our case to the court and we would put our facts before the court and go to trial in the criminal court, and we would present our facts and let the police present theirs. We would not split with the police. We would keep on friendly terms with them. We would handle our case separately maybe, yes. At the same time, we would confer with them each day about it. We would tell them positively just how we went about things as they were developing in our office. Any new facts that we unraveled in a criminal case, we go right to the police about it, and give the local men the benefit of all the information we obtain.

Where the Pinkerton agency in working on a crime and is divided in its opinion, one thinking that a certain theory is correct, and another thinking that a different thing is correct, the facts determine it. As to who decides what the facts are, no one decides. We just present the facts. As to how we reconcile our differences within the agency, we just talk them over; that is all. There is very seldom any conflict. We discuss things between ourselves. If the talk don't come to anything, it stays that way I presume. We don't separate. We work in perfect harmony all the way through. We have to, to get along very successfully. Superintendent Pierce and I were not at loggerheads. We worked in harmony all the way through. The only thing I heard from anyone in reference to it was relay information that I secured through Pierce, but that was after the trial was over, about dissatisfaction, when I had been told that everything was satisfactory, especially by Mr. Rosser, Mr. Haas, and others.

The reason Mr. Pierce resigned from the Pinkerton agency was because he was asked to. He went out of town, dodged a subpoena, refused to answer a subpoena in court in that case. Mr. Pierce told me his opinions about this case. He was superintendent. I was his assistant. I was under his instructions. I followed them absolutely, always. There was no conflict of views between me and Mr. Pierce. There was never a conflict. I would not call it a conflict. There was no conflict between us except about a club that was discovered. As to

whether we agreed thoroughly all the way through, I don't know. We were just talking the case over among ourselves, he had his opinion probably and I had mine, but we never became enemies, or had any disputes about anything. Oh yes, difference of opinion with me. Towards the end, of course, he commenced to express himself as to how he felt about the case. That was after he left town, and wouldn't answer the court's subpoena. As to how he expressed himself, you can get Pierce to tell that. I heard him tell how he felt and I saw it in writing, too.

The day before we went to trial, Mr. Pierce and I both went to Luther E. Rosser's office, and Mr. Arnold was there, and we both expressed ourselves to those gentlemen, that we had the two right men in jail, and if they could convict either one to go ahead and do it. If there was any difference of opinion, there you are. I thought it was one or the other. That is exactly what I said. That is the way I felt about it. I told Mr. Rosser what I thought was the truth at that time, which was that they had the two right men in the jail, and if the court can settle the question, let them settle it. That is exactly what I said to them. I didn't say I didn't know which of the two men is guilty. I said we have got the two right men in jail. If you and the courts can settle it, go to it. It is up to you.

I was down at police headquarters a good deal. I was not in conference with the Solicitor. He refused to have conferences with me until just before the trial. He did not see me at the first part of the investigation, because he declared himself in the newspapers he didn't want to see me on account of my connection with the case. I do not know where the murder notes were kept. My information was that Solicitor Dorsey had them. I do not know how long they were in the possession of the police before they were turned over to the Solicitor. I don't know whether they were at police headquarters on April 28th, when I was employed, nor do I know whether they were there on April 29th. I inquired as to where the notes were and I was told that Solicitor Dorsey had them. The exact date, I don't remember. It was the fore part of the investigation. It was the first or second day I was on the case here. I went to Solicitor Dorsey, and he said he could not give them to me, that some reporter had them, I believe. I did not ask which reporter. No, I didn't just let it drop there. He just told them I couldn't have them. I didn't try to find the reporter because they were in charge of Solicitor Dorsey, and he told me I couldn't get them anyhow. His word was final for me. I made no further effort to get them. I never read those notes. I never saw a full copy of them. I was not indifferent at all about examining the notes, I was refused by the authorities that had control of them, not to see them; I was considerably handicapped, I couldn't get my hands on them. I could not get a copy. The same thing applies to the dress and other evidence in the case. Certainly I reported that to you. I reported to Mr. Rosser every day. He knew what was going on from day to day. Not in my written report, I might not have had it there, but what he did not get in writing, he always got verbally. As to why I made written reports, when I was giving him the facts verbally I was recording the

facts. I had no facts about the notes. There were no facts to report about them. I never saw the original notes during the whole case. I inquired about them of Chief Lanford, I was perfectly satisfied when the Chief told me they were in the hands of Solicitor Dorsey. When I went to Mr. Dorsey for the notes, he said he would not have a conference with me at all. He said: "Considering your connection with the case, I can't afford to take you into my conferences." I said: "All right, Mr. Dorsey". I conducted my whole inquiry into this case without ever seeing the original notes, which I regarded as the most important clue in the case.

In a criminal case, there is no exception to the policy of our agency that we always work with them and give them everything we have. The attitude of the police toward us is thoroughly cooperative. As a rule, they give us everything they have. There is bound to be some friction between the police and ourselves. We handle matters all over the country and there is a little jealous feeling, which is only natural among detectives of that sort. As to whether we are friendly with them, and then again not friendly with me, no we are very friendly with them. As to whether they ever withhold anything from us, they did on that Frank case. A great many things. Yes, it looks as if they were getting all they could out of us and we were not getting all we could out of them. Chief Lanford told Black to work with me. He selected Black as one of his best men and told him to get out and work with me and investigate the matter impartially, and he and I were working alone, and I never expected to get the information that they were gathering, and that he and I should go and investigate the crime together as we saw fit, and as our best efforts would permit. At the same time, they never did take us into their confidences. Yes, I gave them everything I had, but they did not give me everything they had. As to whether that policy is in the interest of the discovery of truth, it was on account of the developments in the fore part of the investigation that led to that. It was the arrest of Frank. If I was in the Chief of Detective's office myself, I would not trust a private detective when his own client seemed to be under arrest. As to what is gained by our policy when we give everything to the police and they withhold from us what they see fit, we are both working for the same object, for the interest of public justice. Yes, they do think we are working for public justice. The reasons they did not give us the truth is that in this one particular case the developments were unusual, different from any case I have ever worked on in that respect, where the man that hired us was under arrest, in charge of the police. Mr. Frank hired us stating he was representing the directors of the National Pencil Factory. Frank was merely the mouthpiece of the directors of the National Pencil Co. in employing our agency. We had absolutely no duty to protect him, and that was mutually understood between ourselves and Mr. Frank.

We reported to you when we first learned about the witness, Monteen Stover.

The following appears in my report of April 28th: "Frank personally handed this girl her wages, after which this girl left Frank's office and walked towards the door of the office leading into the factory; Mary Phagan turned to Frank and asked him if the metal had arrived yet, to which Frank replied no, and the girl then went on her way out of the Factory, as far as Frank knows, as he did not see anything of her during the afternoon.

I presume that is the way I reported it. That is the way it was written up, I never proofread it though.

A correct transcript of my testimony at the coroner's inquest on May 8th is:

"That about 12:10 this little girl, Mary Phagan, came into the office to draw her salary, which he gave her, \$1.20, the denominations of which he thought were two half dollars and two dimes, and that Mary Phagan left his private office, where he paid her off, and went into the bookkeeper's office, and when she got near the door, she turned to him and said 'Has the metal come yet' and Frank replied 'No', and then he stated that Mary Phagan went on out."

A correct report of what I testified, in part, at the trial of the Frank case in July and Aug. is:

"Frank then stated that this little girl, Mary Phagan, who was murdered, came into the factory at 12:10 and drew her pay, that she had been paid off the Monday previous, and she was due \$1.20, which he paid her in denominations of two half dollars and two dimes, he believes, he would not be sure of the two dimes, but he knew there was no currency, bills, that he paid her off inside of his private office, where he was at his desk, and then Mary Phagan left his office and went into the outer office, she reached the outer office door leading into the second floor hallway, and turned around to Frank and asked if the metal had come yet, and Frank replied that he did not know, and that Mary Phagan then he thought reached the stairway and he heard voices, but he could not distinguish whether they were two men or two girls, talking, etc."

A correct statement of what I testified on cross examination on this point is:

"Q. Mr. Scott, you say now that Frank told you when this little girl asked him if the metal had come yet, that Frank said 'I don't know.'
A. Yes sir.

Q. Now, isn't it true that in your report to me, you stated that Frank said 'No' and in the report before the coroner's jury, didn't you say Frank said 'No'? A. I don't think I did, I have said about that practically all the way through the case that his remark was 'I don't know.'

Q. Didn't you say no? A. I am very positive now that is what I said.

Q. Your mind was fresher before the coroner's jury, wasn't it? A. I was very brief there, as I say.

Q. No is a brief word, isn't it? A. It is brief.

Q. Didn't you say no? A. That is what I said.

Q. Didn't you report to me that he said no? A. I suppose so, if you say so, I guess.

Q. Let me read you what you said: 'When she got in the door she turned around and said 'Has the metal come yet' and Frank replied 'No'. Well now, there is a good deal of difference between that language and 'I don't know', isn't there? A. Oh yes.

Q. You stated while sending your report that he said no. A. I positively swear that he said "I don't know".

Q. How came you to swear before the coroner that he said no. A. I was brief there, and by inference that is what I asked him, but if I said no, that was a grammatical error.

Q. When you said no, you meant "I don't know"? A. Yes sir; that was a grammatical error.

Q. What happened there was taken down and written out, wasn't it? A. Yes sir.

Q. And you said 'NO'? A. I admit it.

Q. On April 28th, when it was fresh in your memory you stated that he said 'no'? A. Yes sir.

The following appears in my report of April 28, 1913:

"Frank left the factory about 1 P.M. Saturday, while White and Denham were still working on the top floor."

But it is not correct, it must be a typographical error. You have my original notes in which I exactly took it down from Frank's own mouth 1:10 PM. But the report that you are reading from is the report that the Pinkertons sent to the National Pencil Co. That is what the National Pencil Co. got.

The following is a correct transcript of a part of my cross-examination:

"You say now Frank told you that he left the factory about 1:10. A. Yes sir.

Q. You reported to me that he told you he left at 1, didn't you? A. I made a very serious mistake; my notes there will show 1:10, look them up.

Q. Oh, well, I know, but how many mistakes are there in this report you made to me? A. Why, very few, but of course that is an oversight, I never proof-read them after I dictated them to the stenographer, and I didn't know she made any discrepancies like that in there.

Q. Well, you made a mistake to the office, and you made a mistake to me. A. Apparently so, yes sir.

Q. You made the mistake you said; you have identified that as your report to me? A. Yes sir.

There is nothing in these records as to the matter of Frank's stating that J.M. Gantt, one of his employees, was familiar and intimate with Mary Phagan. Our system is as follows:

"Our system is this, when we take a case from a client, we write up what is known as the general memorandum, and this contains the brief facts of the case as it is referred to us by the client, what the client desires done, and information of that sort; our first conference with the client is never rendered in the form of a report, it has never been done, and I doubt if it ever will be; this information developed just through questions asked me by the Sol. General, which of course I had no idea of, and they were not material as far as our investigation was concerned.

The information was not material as far as our investigation was concerned. It wasn't material in our reports that part about the question whether Leo Frank stated that Gantt knew Mary Phagan. As to whether, if a thing is material enough for the So. General in trying the case to bring it out, it was material enough for me to put it in my reports, you will understand, I did not have a conference with the Sol. General for 2 months after that first report was rendered, and as I say, information of that kind should not go in any report. I would not say that if a point was sufficiently material for the prosecuting officer to bring it out that it should have gone in our reports. My explanation is:

"Reuben Arnold and Rosser, towards the close of the case, just about a week before it was going to trial, I notified them I was subpoenaed by the State, and they asked me to come down and see Mr. Dorsey and have a conference with Mr. Dorsey, and learn what evidence he was going to gather from me and give in a report to them so they would know the line of evidence I was going to give for the state's benefit; I volunteered to do that, I told them I would gladly do it, and I even called him on the telephone and asked him when could I have a conference with him in regard to the evidence that the Solicitor was going to obtain from me for the State's side; well, "we will see you this afternoon"; I called up Herbert Haas that afternoon, and asked

him to arrange for that conference before the trial, and they seemed to be disinterested, did not care to assume.

As to how that is, an explanation is:

"It explains this thing, the identical business, you have inquired about my reports, if they explained the one and one ten business, and you bring up here the point that I was in duty bound for my client, working under his instructions to give them everything they were interested in, and I showed interest enough to give to them that thing that I didn't think they should have known about."

This was just a week before the trial. When I made these reports, I was supposed to be giving reliable information and all the material facts in the case, but I say that the familiarity and intimacy of Gantt towards Mary Phagan was not a material fact at that time. At the coroner's inquest, I was asked to tell all I knew about the case, but I don't recall whether I said anything about the alleged intimacy of Gantt toward Mary Phagan.

The following correctly states a part of my testimony at the trial of Leo M. Frank:

Q. Now, what, if anything, did Frank say with reference to Gantt? A. He stated during our conversation in the private office the first day I met Frank, that J.M. Gantt knew Mary Phagan very well, and that he was familiar and intimate with her.

Q. Now, did Frank discuss or not the friendliness of Gantt for Mary Phagan with you on that occasion? A. He stated, as I have expressed it, that Gantt was very familiar and intimate with Mary Phagan, and he seemed to lay special stress on it at the time.

Q. Well, what particularly did he say about the attentions on the part of Gantt for Mary Phagan, if anything was said? A. He said that Gantt paid a good deal of attention to her.

Q. I will get you to look over that and see if you didn't give me a statement of what was said there that day (handing paper) didn't you testify before the coroner's inquest what conversation you had with him that day? A. Yes sir.

Q. Your mind was very fresh then, wasn't it? A. Yes sir.

Q. And you told the whole conversation then, did you; you didn't keep anything back? A. As I remembered it, no, I wasn't concealing anything, the bulk of it is there, all but the morning movements of Frank, the movements of the morning.

Q. You did give, me, or purport to give me in substance the conversation with Frank in the factory the first time you went there, did you not? A. Not in detail, no sir.

Q. Didn't you detail it here at considerable length? A. Well, yes, it was at considerable length, but I say I haven't the movements of the morning hours here.

Q. What do you mean by morning hours? A. When he left home, and arrived at the factory, and went to Montag Bros., and returned to the factory.

Q. That is not what I am talking about; you did give me a statement, whether detailed or not, of the conversation you had with Frank that evening at the factory, and you didn't said one word that he said about Gantt being familiar with the poor girl Mary Phagan, did you? A. It was just an oversight, that is all.

Q. Was it an oversight before the coroner's inquest too? Look at it, and see if you said anything about that before the coroner's inquest; your mind was fresher then about a verbal conversation than it is now, wasn't it? A. Well, it was fresher on my mind at the time, certainly, but you will understand the coroner asked me certain questions, and I gave him answers to the questions, but he did not cross examine me like Mr. Dorsey has been.

Q. Now, didn't the coroner ask you what he told you about it at that time, didn't you answer for two and a half full pages, and isn't it true that you never said a word about that? A. About Gantt?

Q. Yes, about that particular transaction with Gantt? A. Yes, probably so, I don't know.

Q. You understood to tell the coroner about it under oath, and you didn't mention that, that is true, isn't it? A. Yes, I can explain the reason very well why I did not put it in your report.

Q. You were not hiding anything from me, were you? A. Because Gantt was released on the next day and I considered him no suspect at all in the matter.

Q. Well, that wasn't true when you were before the coroner, he was under arrest then, wasn't he? A. Gantt. No, he was out on habeas corpus, so far as I know.

Q. No sir, that was afterwards. A. That is right.

Q. He was a suspect then, but you did not put it in there because he was not a suspect when you gave it to me? A. No.

Q. So, it was on your mind, but you had a reason for not giving it to me? A. No, there was no reason, it was an oversight, if anything at all.

Q. Didn't you tell me a moment ago that you had a reason for not giving it to me? A. Oh, I did not consider him a suspect at the time I dictated that report to you there, I have not at any time said that I dictated it to the stenographer the same evening I talked to Frank.

Q. But didn't you tell me just a moment ago that was the reason you didn't give it to me, you said that, didn't you? A. I did not consider Gantt a suspect, and that was my reason, yes sir.

Q. That is the reason you didn't give it to me? A. Yes sir.

I did not consider it material at all to mention in the report to the Pencil Co. that statement of Leo Frank regarding Gantt's intimacy with Mary Phagan. I knew then that Frank was under strong suspicion, but I did not think the fact that he was accusing Gantt of familiarity with Mary Phagan had any materiality against him. I knew that Frank had stated that he did not know Mary Phagan and that he had to look into the books to tell her name, but it wasn't a material fact against Frank at that time that he said to me that Gantt was familiar with her and knew this little girl. The fact that he said he did not know the girl, by name, and yet stated that Gantt was familiar with her was not in my mind at that time a suspicious circumstance against Frank. That circumstance did not look suspicious, and did not indicate guilt to my mind at that time. If a man was saying, I don't know a person by name, and yet went on to say that somebody else was familiar with her, I don't think it would show that he was necessarily lying in his first statement. That did not enter my head in the first place. The first time I saw the materiality of it was when the Solicitor asked me the question. It took me from the 28th of April until the day in August, when I was examined, for it to dawn upon me that that was a very material point. I had a great many other points in my head and it is impossible to get them all. No, I don't admit that I was a little slow about that.

Yes, I am positive that Leo Frank said to me that Gantt was familiar and intimate with Mary Phagan. Yes, he told that to me. I know he told it to me. This a correct transcript of my cross-examination by Mr. Rosser:

Q. Well, now, that conversation you say about Gantt's wasn't that Mr. Darley that said that; I just want to re-fresh your memory? A. No, Mr. Frank, to the best of my knowledge, is the man that said that to me, he was the one that told me about him being familiar with Mary Phagan.

Q. The reason I want to refresh your memory about that is your own notes, as you have them there, your own notes show that it was not in the factory, but in the room outside afterwards; I just want to refresh your memory, if that is not true. A. You can't refresh it, I am clear on that point.

Q. That it was not Mr. Darley? A. Well, as to the factory, I am not clear, but I am clear, perfectly so, that it was in the office, and Mr. Frank was the spokesman.

Q. Well now, are you clear whether you got that statement from Darley or from Frank? A. No, I am not sure.

Q. You are not sure about that? A. No sir, I am not sure about that.

I testified just now that I was sure that I got that information from Frank. As to which of those statements is true, I got it from Frank. As to why it is I was not sure at the time of the trial, more than 2 years ago, it is because I know that Frank was the spokesman the entire time that we were in the office. I recall it all perfectly now.

In my report of May 1st, I made reference to the fact that on the night of April 29th, at midnight, that detective Black and I requested Leo Frank to go into a room and talk to Newt Lee, one of the suspects at that time, and I narrated in this report what has occurred and what Lee told us afterwards about what Frank had said to him. The following is what I testified on this point at the coroner's inquest, the coroner interrogating me:

Q. Will you please state about the interview between Lee and Frank, who planned it, and how it was planned, and what was said to Frank before he went in. A. Black and I requested Frank that he go into this private room with Lee, and I thought it was to get any information that he might be withholding from either us or the detective department, and I told Frank to impress upon Lee the importance of telling the whole truth in the matter, and to do whatever he could to persuade Lee to tell the absolute truth in the matter. Frank said he understood, and we went in to talk to Lee.

Q. Now, that did you tell him to say to Lee? A. Just as I said.

Q. What did Frank say, or do you know? A. No, I have no way of knowing that; they were both together privately in the room there, and we had no way of knowing except what Lee told us afterwards.

The following is a part of my testimony at the trial on this point in response to questions by the Solicitor:

Q. Who said that: A. Black, first, he had a little preliminary conversation with him, and then I talked to Frank myself, and after Black got through talking to Frank, I said to Frank that I also believed that Newt Lee knew more than he was telling about this murder, and that he was his employer I thought he could get more out of the negro than we could get, and I asked him if he would consent to go into a private room there as employer and employee, and try to get it out of him; Frank readily consented, and we put them in a private room, and they were in there for about 10 minutes, they were together, and nobody else was around; when the 10 minutes was up, Black and I

entered the room, and it seemed then Lee had not finished, had not completed his conversation with Frank, and just as we entered the room, we took seats alongside of both of them; Newt Lee was handcuffed to the chair, and he says: "Mr. Frank, it is awful hard for me to remain handcuffed to this chair, he says: 'It is awful hard, awful hard, Mr. Frank'". Frank hung his head the entire time the negro was talking to him. Finally in about 30 seconds, he says: "Well, they got me too". Then I finally had a conversation with Lee and Black.

Q. Was Frank present? A. He was not.

Q. Well, that is not admissable. A. Then I asked Frank in the presence of Black, if he had gotten anything out of the negro, and Frank said no, he still stuck to his original story.

Q. Now, describe if you can the appearance and deportment and manner in which Frank talked and carried himself at the conference set forth on that occasion. A. Well, he was extremely nervous at that time.

Q. Well, now, detail the facts. A. Well, Frank was very squirmy in his chair, crossing one leg and then with the other he didn't know how to put his hands, he was moving them up and down on his face, and he hung his head a great deal of the time while the negro was talking to him, that is, in my presence.

Q. How did he talk? A. Well, as I say, he hesitated some.

Q. How did he swallow? A. Very deep swallows.

Q. How did he breathe? A. Very heavily.

Q. Illustrate to the jury how he breathed. A. Well, he just took a long sigh like that (illustrating), more of a sigh than a breath.

Q. Did you notice his eyes? A. Yes sir, I judged their insecure condition all the way through, yes.

Q. What did he do with his hands? A. He didn't know where to place them, he placed them, he placed them all over his face, and he rubbed his mouth, several times, and then he crossed his legs and squirmed in his chair a great deal." The following is a part of my cross-examination on the same point by Mr. Rosser:

"I have no way of knowing that, they were both together privately in a room there, and we had no way of knowing except what Lee told us afterwards: "He asked you this question, didn't you say that? A. Yes sir.

Q. Now, you say you did hear a part of the conversation between Lee and Frank? A. Those last words of Lee, I heard.

Q. But you said before that you did not know, that you had no way of knowing, didn't you? A. Suppose I did say so, can't I refresh my recollection since then.

Q. Well, this is one statement here, and you are making another one now. A. Well, I give you the gist of it.

Q. But you didn't say anything about the gist of it. A. Well, I will admit that I did hear Lee's last words of that conversation.

Q. So you admit it was not the truth you testified before the coroner? A. Well, that is all true as you have stated it, yes sir, so far as you have gone.

Q. So there you say you did not hear anything, and now you say you did; they asked you "What did Frank say afterwards," and didn't you state you didn't hear him say anything, but that he stated that he couldn't get anything out of the negro; now that is the whole thing you told about it? A. Yes sir, that I remembered."

At that time, Frank's nervousness had no effect whatever on my mind, because I did not consider Frank any suspect at all. Knowing the man was under a strain, I did not suspect him at all at that time, and therefore it was not a material fact at that time. I did not consider him a suspect.

It was a matter of materiality in my mind as to who had written the murder notes, and it would have been material to show that any one was aware of the fact that Conley would write and had nevertheless concealed the information. It would have been a guilty circumstance. The circumstances relating to the discovery of the fact that Conley could write were:

"Being in charge of the investigation, I instructed the 2 operatives that were working it with me, McWorth and Whitfield, I told them to go to the factory and get a specimen of the handwriting of every present and past employee, particularly the negroes; of course that took some little time; then there were things that came up in the investigation that needed immediate attention, and they did not devote every day to the doing of that particular work; and so I left Syracuse about May 16th, and had to spend sometime at Ashville, N.C., before I left, I had those two operatives in my office, and I told them I would be gone 3 or 4 days, and that what I wanted them to do while I was away, was this: I wanted them to first go through that factory from attic to cellar and see if by any chance they could find a pay envelope and a mesh bag, and I gave them very positive instructions to make a minute search all over from attic to cellar, and I told them also to secure the specimens of the handwriting of the various employees that they had not already obtained specimens from; of course that would have taken the 3 or 4 days time while I would have been away. When I returned, I returned I believe on Sunday morning, yes, I know it was Sunday morning, and the 2 operatives and the former superintendent

there, Mr. Pierce, was present in the office when I arrived about 9 o'clock, and they told me what the result of the search was in the factory, they had some twine there, and they had a club, they didn't have the club but they had a buggy whip handle, which they told me, or a club, what had been in Attorney Rosser's hands, and also had a portion of a pay envelope, with the name "Mary Phagan" written on it; and they also had 2 receipts showing that the negro Jim Conley signed on those receipts had purchased a watch and some jewelry on the installment plan, and of course he signed one of those credit receipts, legal bond they were, and the writing there impressed me very much, and I asked them where this negro was, and they told me he was locked up in the city jail, that he was the negro, the only one that they had not secured a specimen of handwriting of, and they told me that their information came through Mr. Herbert Schiff, the bookkeeper, who referred them to this jewelry agent to get the specimen of handwriting. Of course, with that information, I started out to get Jim Conley, and of course I made my very best efforts to track him down, and of course the result is known. I went down there, and of course made him write, he made no denial to me, but I had previously been informed that he had made a denial that he could write to the city detective, but I had no trouble at all, and Mr. Alexander has told you that I showed him where he could write; I did no such thing; I gave him a tablet and pencil and told him to write what I dictated, which he did, without telling him what I had.

Conley up to this time had denied that he could write to the city detectives. I knew it that Sunday when I got back to Atlanta from a trip away. They had just gotten it that Friday, said they had seen Black and Black and told them that, so they kept all this information until I returned. Conley was arrested May 1st, Thursday. It was on Sunday, May 18th, when I came back, they day we obtained the first statement. That was the first time I heard that Conley was denying he could write. As to whether it was good work for me to have been ignorant of that fact up to that time, do you think I could have handled the whole investigation from start to finish? As to my having operatives on the job, my operatives had been out a month previous getting samples of handwriting. Well, a couple of weeks previous. The reason I did not know before that Conley was denying that he could read or write was because he wasn't present in the factory during the month, the fore part of the month, he was under arrest, and my instructions to those operatives were to secure it from the past and present employees of the factory, the handwriting, and Conley, of course I saw him last, he was the last they could get to, he being locked up. Before then, the operatives had been instructed to ask for handwriting. Black had not told me before this that Conley had told him he could not write. He had not told me that he had made any inquiry about Conley, because I had a good many other things on my hands and I did not get to Conley at that time. I didn't know when I sent my operatives down there that Conley was denying that he could write. As to why the operatives that went down to the factory asked about Conley particularly it was because he was the only one they had not obtained a specimen of handwriting from, particularly the negroes.

I presume those specimens of handwriting are in our office. I don't know what has become of them. I don't know whether they are here this morning or not. They were obtained under my instructions. McWorth and Whitfield made this investigation under my instructions. These papers are their original reports. They reported verbally as well as in handwriting. They were supposed to be accurate in their reports. Sometimes a man has a conference and tells certain things and then later on other things may develop and all those things may not be in his report, but you know them because he has told them verbally. A man has got a lot of things to think about and he cannot carry everything in his head so as to get it exact in his report. There is no man who can do that. No detective can do it. No, I do not reserve the right to be inaccurate in my reports. As to my leaving things out occasionally, there is a chance of an oversight of that sort. Certainly we are not infallible in that line. Either Mr. Pierce or I edited these reports.

Whitfield and McWorth's reports of May 16th were both edited by me. The following appear in Whitfield's report:

"Schiff stated that he did not know (that is as to whether Conley could write, if Conley could write) Schiff stated he did not know (then you have got some words cut out) I was informed by Schiff that Conley had bought watches from different jewelry stores; I then went to the Berry & Thompson Jewelry Store on Broad and Alabama Streets, where they had a contract was signed by Jim Conley, but he had signed this contract as Willie Conley; I then went to the Jones & Phillips Jewelry Store 287 Marietta St., and received another contract signed by James Conley, I then went to the Saul & Abelson Jewelry Store, corner of Broad & Luckie Sts., and received another contract signed by James Conley. I then returned to the agency and compared the handwriting of Conley's with the note that was found alongside of the body of Mary Phagan, and the handwriting appeared to be identical."

In this report the following words were cut out: "Schiff stated that he did not know, but that he would send to the Tower and learn from Frank if Conley could write."

I cut that out of the report, yes sir. These words did not appear in Whitfield's report of May 16th made to the pencil factory. They were not in there. They had been cut out. The report was sent to us with the words eliminated that Schiff said he would send to the Tower and learn from Frank if Conley could write. There is nothing in the report sent to clients about the result of sending to the Tower and finding out if Conley could write. There is nothing in said reports about getting any information from Frank. Whitfield and McWorth did not report to me that they had sent a man over to the Tower and this man had come back and said that Leo Frank had said that Conley could write and that they were to look for that Jeweler's card. They did not report that to me. They told me, I remember distinctly, that Schiff has informed them that he could write and to go to those Jewelry stores.

My reason for cutting those words out of Whitfield's report was because McWorth's words contradicted him. If 2 men are working together and they cannot reach and they did not hear the same thing, we will cut it out. We would say it was not a fact. If they didn't hear the same thing, it goes out, no matter how material it may be; of course, it all depends on what we think of the man that is making the statement. As to whether I did it because I mistrusted Whitfield, we had complaints against Whitfield for talking too much at that time. McWorth was very reliable, but that is nothing against his truthfulness. There was nothing in the reports of Whitfield and McWorth as to what they learned from Leo Frank saying that Conley could write. Certainly, I regarded it as a material point in the case, Frank's saying about Conley's writing, but Schiff in that report states that:

"He would send down and see Frank, and when the operative got back later, Schiff had told them evidently that Frank said it, or that he said so and so, and instructed so and so, and Schiff must have taken it on his own responsibility to tell them 'You go to certain jewelry stores and get his receipts; and therefore they put it in the reports exactly the way they got it'".

If the messenger came back and told them so, they certainly ought to have put it in their reports. On May 18th, I knew that Connally could write, and I knew that I had gotten that information from the Pencil Factory and that it came from Schiff who at that time was acting as superintendent of the Pencil Factory.

As to the article in the Atlanta Constitution of July 17th, purporting to have been written by one Britt Craig, I examined every line of it and it is a pure fabrication. It was a complete and gross misrepresentation of the facts. As far as I was concerned, it was an outrageous misstatement of the facts.

On the witness stand, at the trial, I was asked by the Solicitor General as to where I got my information that Conley could write. The following is a correct transcript of that part of the evidence.

Q. "Did you get any information about this man being able to write from the National Pencil Co. people? A. Personally, no.

Q. Did you or did you not get your information from entirely outside sources and wholly disconnected from the National Pencil Co.? A. Yes sir."

I swore that I got it from two operatives. When I swore that I got the information from wholly outside sources, I meant I got it from my two operatives. I did not get it from the pencil factory. No, I wasn't quibbling. I have no reason to quibble not anything else, or to cover up.

As to the part played in the successive affidavits that Jim Conley gave, on May 18th, I got my first statement from Conley at police headquarters, after conferring of course, with the operatives in the morning; immediately after getting that statement from Conley, I sent for Mrs. White, or the pencil co., she having previously stated that she would testify that she had seen a negro at the bottom of the stairs when she was going up in the factory to see her husband, she had seen a negro hid behind some boxes; of course, I sent for her to line Conley up with several other negroes to see if she could pick him out to identify him as being the negro that was sitting at the bottom of the stairs. That about constituted my work on the 15th. Of course, you understand as well as working on this matter myself, I also instructed the operatives and during the times, during the day, my time was taken up in that respect. On May 22nd, I was conferring with the police and the Solicitor General. On May 23rd, I was subpoenaed as a witness first to appear before the Grand Jury, and running out some information we had received, that is, various facts that came along, something about the crime.

The following is a correct statement, in short form, of what I testified at the trial as to the part I played in getting these affidavits from Conley:

Q. "Sunday, May 18th, I was present when Conley made his statement:" is that statement in your report? A. Yes.

Q. "May 18th, I wrote it out myself, he made no further statement on that day, but he stated he did not go to the pencil factory at all that day; at that time I knew he could write; he told me everything that was in that statement, but the information that Conley could write came from the pencil factory on May 18th. On May 18th, I dictated to Conley these words: "That long, tall, black negro did by himself"; I dictated each word singly, and I should judge it took him more than 6 or 7 minutes to write it, he writes quite slowly. When he was before Mrs. White to see if she could identify him, he was chewing his lips and twirling his hat in his fingers, he didn't seem to know how to hold it, and he couldn't keep his feet still; he positively denied on May 18th that he had anything to do with the murder of Mary Phagan, and that he was at the factory at all. We talked very strongly to him, and tried to make him give a confession we used a little profanity, and cussed him, and he made that statement that he knew that I knew he could write; we talked for about 2 or 3 hours that day. He made another statement on May 24th, which was put in writing."

He was carried to Mr. Dorsey's office that day, and went over the statement with Mr. Dorsey there. He still denied that he had seen the little girl the day of the murder. He swore to all that the statement contained. That statement was a voluntary statement from him; I sent for Black, and we went there together, and we two questioned him very closely for about 3 hours. On May 25th, he repeated the story that he told in his statement of May 24th. We saw him again on May 27th in Chief Lanford's office. Talked to him about 5 or 6 hours. We tried to

impress him with the fact that Frank would not have written those notes on Friday, that was not a reasonable story, that showed premeditation and that wouldn't do."

We pointed out to him why his first statement would not fit. We wanted another statement, and he declined to make another statement; he said he had told the truth. On May 28th, Chief Lanford and I grilled him 5 or 6 hours, endeavoring to make clear several points which were far fetched in his statement; we pointed out to him that his statement would not do, and would not fit. He then made us another long statement on May 28th, having been told that his previous statement showed deliberation, and that they could not be accepted." That was the second affidavit he made. "He told us then all that appears in the statement of May 28th." That is my report there.

"He never told us anything about Frank making an engagement for him to stand for him and for him to lock the door; he said nothing to us about seeing Monteen Stover. He didn't tell us about seeing Mary Phagan; he said he did not see her, and he did not say he saw Lemmie Quinn. Conley was a rather dirty negro when I first saw him. He looked pretty good when he testified here. Frank was arrested Tuesday morning at about 11:30, on May 29th, about 11:30. On May 29th, we had another talk with him (meaning Conley) we talked with him almost all day; then we pointed out things in his story that were improbable, and told him he must do better than that, anything in his story that looked to be out of place, we told him wouldn't do; after he had made his last statement, we did not wish to make any further suggestions to him at that time; he then made his last statement on May 29th." That is in there.

"He told us all that appears in that statement; we tried to get him to tell about the little mesh bag, we tried pretty strong, and he always denied ever having seen it, he never said he saw it in Frank's office, or that Frank put it in his safe; we asked him about the parasol, and he didn't tell us anything about it; he didn't tell us anything about Frank's stumbling as he got on the street floor so the elevator would hit him. Since making this statement of May 29th, I have not communicated with Conley, and have not seen him."

As to whether I recollect any of the things that I pointed out to Conley as being improbable and not fitting, I was trying to get the truth, and as to whether there was any particular kind of truth, I tried to make Conley confess that he killed the girl. That was my idea, and I put most unusual efforts in that line. The affidavits that I took from Conley were taken to make him confess that he was responsible for that crime as principal that he committed the crime himself. That is what I was driving at, to break him down. Absolutely, every time I talked to him. Certainly, I did not report what Conley did when I got these affidavits, because it was not essential at all. It would have been ridiculous for me to tell you how I got a statement from everybody. It would be ridiculous and we would have to hire public stenographers to take down the questions and answers; we never

do it. We do not want anybody to be present in the room when a detective is talking to a criminal. I don't regard it as essential that is the reason we did not report it.

I remember that one of the points in the affidavit of May 29th, 1913, was that Conley said:

"That Frank took a big roll of bills out of his pocket, \$200, and gave it to him, and in the next few lines he said that Frank said 'Let me see that money', and then he took it back, and I said 'Is that the way you do' and he said "All right, I will make it good on Monday".

Yes, I remember that was added to the affidavit as a sort of postscript, as to exactly how that happened, it came voluntarily from Conley's own mouth, there was no suggestion of anything else made to him when he sprung that. I made no suggestion of my own in regard to that. It came from Conley himself. I cannot recall at what time of day the affidavit was made. It was written out and he signed it. The postscript was put to it immediately. It was put down there when the whole affidavit was written out. That is my recollection of the matter. I didn't regard the postscript as of any importance, because I am of the impression that I asked Frank about it and he denied it. I asked someone, I have forgotten. We discussed it. I don't know whether it was with Mr. Rosser and Mr. Rosser asked Frank, or just how. I know it came through Frank that such a thing was not done. When Conley made the statement that Frank gave him \$200 in bills, he was asked the question, what became of the money, most certainly. He was asked how he spent the \$1.25 that was in the cigarette box. I just can't recall who asked him how he spent the \$200. I just don't recall. It is so far back and so many questions were asked and so few parties in the room, it is utterly impossible for me at this time, at this late day, to say who did it. I wouldn't be sure whether I did or not or whether it was any other particular man. It may have been me or it may have been. I may have asked him that question. My recollection is on this that, after the stenographer, Mr. February, took this statement from Conley, Conley volunteered this information himself while February was writing it upon the typewriter, and then when February came back in the room with the typewritten copy, he volunteered this information, and it was added to this affidavit, that is my recollection of it now at this time, though I am not absolutely clear on it; I think that was the way it was done.

After the affidavit was made, I got only a copy of it, so that we could copy it to our clients. I recognize that as Conley's signature. I believe I can even recall February sitting down and taking those words from Conley's mouth and writing them in long hand. As to whether I regarded the addition to the affidavit as a matter of consequence, I don't believe I placed much credence in it, and that would show that I didn't place any materiality in it. I don't know whether he testified the same thing about this \$200 at the trial or not. I was not there. We were talking about the \$1.25 and we were trying to learn from him what he did with that money.

We were trying to get Conley to confess to the crime. Yes, all the time, each affidavit that we secured from him, I went after him to make him admit that he killed the girl. As to whether these statements were all in his own language, I would not say positively. The one taken on the 18th, I wrote myself, the others were taken right down from Conley, as far as I know or recall. The opening part of the affidavit of May 28th, is as follows:

"Personally appeared before me, a Notary Public in and for the above state and county, James Conley (He was James at that time) who, being duly sworn, on oath says, I make this statement, my second statement in regard to the murder of Mary Phagan at the National Pencil factory. In my first statement, I made the statement that I went to the pencil factory on Friday, on the 25th and went to Mr. Frank's office at four minutes to one, which is a mistake. I made this statement in regard to Friday, in order that I might not be accused of knowing anything of the murder, etc. Now, I make this my second and last statement regarding the matter freely and voluntarily, after thinking over the situation, I have made up my mind to tell the whole truth, and I make it freely and voluntarily, without the promise of any reward, or from force, or fear of punishment in any way."

That is not Conley's language nor mine either. The first paragraph. That is the notary public's language. I think Mr. February. The remainder is Conley's language.

I never had this in my hands I had a copy of it. I knew the postscript had been marked. Mr. Rosser knew it verbally. I know, I knew that client's knew it. No, I don't leave important matters out of a report relying upon clients finding them out for themselves, but you can appreciate the fact that a man coming along in a case of that sort, with a great mass of details, working on the case, preparing reports, instructing operatives, and rushing out on the work himself, he don't have time maybe to insert all that stuff. Now, the chances are I just grabbed that copy of that affidavit and took it right up to the office to show to our clients without that part being written in by Mr. February. It was not omitted intentionally. The reason I sent an imperfect copy of this affidavit was because the job was taking up all my time, and I had so much to do I could not look after all these details. I did not say the job was too heavy. There was no limit to the number of men that I could have employed on this case according to the contract, yes we could have put on the case 50 or 100 additional men if we found it necessary. Here was our system, every time we sent clients a written report, these written reports would go to Mr. Rosser, then frequently I would go up there and make a verbal report. So far as that goes, a verbal report was just as good as a written report. It is the same system the Pinkertons use all over the country. You don't have to put down everything. They will confer with their client and tell him maybe a little more than they will put into a written report, just like a business man will confer with somebody and tell him a little bit more than he has put in a letter he has written

to him, it is only a very small percentage of the facts that we report by word of mouth. In addition to the written reports, we would confer with Mr. Rosser about what had transpired from time to time. In addition to the reports, we would tell everything we knew. I don't recall that I called Mr. Rosser's attention to this affidavit, and told him that his copy was imperfect. As to what was the value of our work anyhow, I don't know that we fell down on every material point. No, we didn't fall down. We didn't do anything of the kind. We made an honest effort to discover the true facts. No, I was not careless at all. No more careless than an ordinary man would be under a heavy strain like that. It did not enter into it, as far as that goes, that I had a right to employ 50 or 100 men to relieve me of the strain. I had direction of the work and I had more on my head than any one man could do. As to why I did not get another head, you cannot have two heads running the same line of work. Yes, I had the right to employ anybody I wanted to. Yes, I said just now I was not very careless. I made certain omissions that I don't really attribute to carelessness, that if faulty carelessness, intentional carelessness. You might call it thoughtless carelessness. We gave you the information as to the contents of the postscript to that affidavit. Pierce and I discussed it with Mr. Rosser and ridiculed it with him. Mr. Rosser ridiculed it with us. He said he never had \$200.00 at a time, meaning Frank. You are just trying to create the impression that we were careless or negligent in not reporting that matter as a matter of fact. We did take that matter up with Mr. Rosser verbally.

I presume May 29th was the date I last conferred with Jim Conley, but I made an error to confer with him again. I never laid eyes on him after that, but I carried out the wishes of our clients by going down there and asking Chief Lanford to let me have one final talk with the negro. Beavers and Lanford said no.

As to what is the sense of the policy by which the Pinkertons go to the police and turn over everything they have to you and then when the police get out with you, they turn you down in certain limits, the police do not in all cases. They did in this case. This is an unusual case. They did it in this case. That is no fault of the Pinkerton Detective Agency that our friends threw us down. The police can take a man into the jail and talk to him and a detective may not have that opportunity. Detectives are employed to do things and we did them. The police have control over the proposition. They can lock a man up where we can not see him if they want to. And the regular detective run up against that sort of thing they are seriously handicapped.

As to why we wanted to have a further conference with Conley, after the affidavit of May 29th I was not satisfied with his affidavit, but after this, I could not get another word with the negro on account of the police. As to whether our policy of cooperating with the police accomplished much in this case, I think that it accomplished all that it was possible to accomplish. I don't know who was put on the case after May 29th. There were so many of them working on it. Mr. Dorsey was the one that issued the order, after May 29th, not to have any one

see him. He had the prisoner then, over in the county jail. Campbell and Starnes were the other city detectives on the case after that. I and Black were dismissed and Starnes and Campbell put on. I don't know why they took me and Black off. I never have found out. I suppose it must have been my connection with the case. Black and I were pretty thick, certainly, but we were acting together all the time, and of course when the department would get certain information that they were giving to Black, they treated Black the same as they treated me in that respect.

Re-Direct Examination:

After May 29th, the city prevented us from going any further, because our ground work for further investigation would have been Conley. The plaintiff did not take me off the case. I continued to conduct the investigation for the plaintiff and direct their operations through the entire investigation until after the trial. The defense put me on the stand as a separate witness.

Re-Cross Examination:

Yes, the defense put me on the stand. They subpoenaed me and I went on the stand at the trial. I followed Dr. Childs on one day. Chief Lanford never told me after the affidavit of May 29th had been obtained that the Phagan mystery had been solved and that Conley had at last told the truth, and that after that no more could be expected from Conley because he had told the truth.

John Starnes, for plaintiff, testified as follows:

I am a city officer and was such at the time of the Mary Phagan murder. I investigated the crime for the City. I came in contact with the Pinkerton detectives in that work. I remember the names of Harry Scott and the partner of McWorth. Those are the only two that I knew that did work. They were working on the case. I had conferences with those men. I came in contact with Whitfield at several places. I met Scott in that connection. He was connected with one of our men, Mr. Black, I went out with them. I remember Black and Scott and I went away down to East Point, I first came in contact with Scott on perhaps Monday afternoon or Tuesday. Sometime right early in the case. I saw him from the first right on through the trial.

Cross Examination:

As to my having heard why it was the Black and Scott were taken off the case, and I and Campbell put on, I don't think they were taken off. On one part of the case they were taken off. In connection with Jim Conley, they were excluded from him and Campbell and I managed that part of it. We took charge of Conley. After that Black and Scott did not connect with Conley. I don't know of my own knowledge why that was.

Re-Direct Examination:

I was in the case to start with. I get to the place the next morning after it happened. Black continued to work on the case after he was relieved from investigating the Conley end. Black was never retired from working on the case that I know of. Scott was never retired from working on the case in my knowledge.

S.L. Rosser, testified for plaintiff as follows:

I am a city detective and was such at the time of the Mary Phagan murder, I was detailed to that work by Chief Lanford and Chief Beavers the same morning after her body was found that night. The body was removed from the factory before I went there. There were three or four Pinkerton detectives who worked on the case. I came in contact with them. I recall Scott, Pierce, McWorth, Whitfield, and another, Peace, I believe. These men were working, trying to find who murdered Mary Phagan. I came in contact with Scott, Whitfield and McWorth within 2 or 3 days after the murder. I saw them often on up to the trial.

Cross Examination:

I saw none of the reports made by the Pinkerton Agency to the National Pencil Factory. In the character of reports that I make to the City detective department, accuracy is not important. I do not give the facts in my report. I simply report the arrest and what it is for.

I saw the so-called murder notes at police headquarters. I do not know exactly when they were brought there. The other parties handled that. I saw them myself and had them in my hands. It was a day or 2 after the murder happened. They were in Chief Lanford's office at the time I saw them.

Re-Direct Examination:

Scott and the rest of these Pinkerton men worked together with the city men trying a great deal to ferret out the crime.

Re-Cross Examination:

John Black is 42 or 43 or 44 years old and has been working for the city about 9 or 10 years. I have been there about 15 years.
L.J. Sacrey, for plaintiff, testified:

I am now in the real estate business in Atlanta and was employed by the day in the Mary Phagan murder case. I did several days work on it in July 1913. I don't remember how many days. I was directed to investigate the affidavit made by Muncie, and find out whether it was really the truth or not. I worked just 2 or 3 days under the direction of Mr. Scott. Wiley W. Hannon, sworn for the plaintiff on the Mary Phagan murder case. I worked close on to 16 days under Mr. Scott. I went to Macon to look for a man named Will Green who said he had heard

Conley say something about who committed the crime. No sir, I did not locate Green. I never found a person by that name. I scoured the town. That is all the work I did on the case.

Plaintiff Rested At This Point.

Leo Gottheimer, for the defendant, testified as follows:

In April and May, 1913, I was in the employ of the National Pencil Co. as a traveling salesman. I arrived in Atlanta about May 5th or 6th following the murder. When I came in I was instructed by my employer to go over to the office where I might be of some assistance. Frank was not there and I might be able to help.

I recall seeing the Pinkerton operatives in the factory. I recall 2 of them by the names of Whitfield and McWorth. I recall the occasion of their visit to the factory on May 16, 1913. On that occasion there was present Mr. McWorth, Mr. Whitfield, Mr. Darley, Mr. Schiff, and I think another fellow by the name of Campbell. Mr. Darley was the foreman and Mr. Schiff was acting as superintendent. Mr. McWorth and Mr. Whitfield came in and they asked Mr. Schiff and Mr. Darley and those present if they knew whether Jim Conley could write, and Mr. Schiff said yes he thought he could write, he knew he could write, and they wanted, they told us then they wanted to get some evidence of his writing, for they felt sure themselves that he could write, and that he had been denying that he could write, but they themselves felt sure that he could write, and what they wanted now was evidence of that, and a few minutes after that, one of them McWorth, I think it was, called me in the outer office, and asked me as a favor to him, the next time I went over to the Tower to see Mr. Frank, to please ask Mr. Frank for him if he knew whether Conley could write or not; and I did; I went over to the Tower and saw Mr. Frank, and told him just what was happening, that the Pinkertons had come up very much enthused with their belief that Conley could write, that he had been denying that he could write, and they believed he could write, and what they wanted was some evidence of his writing; and Mr. Frank said "Yes, I know he can write, I have had notes from him asking me to lend him money, and things of that character." And I said "What they want, though, is some evidence of that matter, and we thought maybe you could tell us, tell us where they could find some evidence of his writing." Then he told me to tell Mr. Schiff to go back in a certain drawer in the safe vault and find a card from jewelers or pawn brokers where he had been buying a watch, and to give that to the Pinkertons, and maybe it would be some help to them. And I came back and reported that to the Pinkertons, just what Mr. Frank had said.

As to what these men said as to the relations between themselves and their superiors, they talked on a number of occasions, every time they came up, they talked to me, and they wanted to impress, there seemed to be friction with their superiors, everything they done, these two men, McWorth and Whitfield, they told me they would not accept their theories, and they seemed to be tickled to death to get this new

evidence of Conley's writing, they said "We have got the goods now, they can't deny this, we can prove this on them in such a way that they can't deny it." They would come up there, Whitfield and McWorth, and they would talk to me at those times about how they were moving. I saw them a dozen times or more at the factory. They were in and out all the time, several times a day sometimes.

Up to the time of this visit, of the operatives to the factory on May 16th, the people at the pencil factory did not know that Conley was denying that he could write. It came as a surprise when they told us that. When they asked me to do that for them I was glad to do it.

Cross Examination:

Mr. McWorth told me to ask Mr. Frank the next time I went down to the jail if Conley could write, and if we knew where we could find any evidence of his writing. I reported my interview with Mr. Frank to Mr. McWorth. I came back and reported that interview to McWorth and Whitfield, and came back and told McWorth exactly what Mr. Frank told me. No, I did not tell McWorth to go in the safe and get the papers out, for Mr. Frank told me to tell Mr. Schiff where the card could be found in the safe and for him to get it and give it to the Pinkertons. When I came back I told that to Mr. Schiff and I also told that to Mr. Schiff and I also told Mr. McWorth everything that happened. McWorth was there and the other men came in a little later. When he found out what had happened, he was very much enthused over the fact that they had found this thing and they left after that. Mr. Frank's exact words, if I remember them correctly, were that Mr. Schiff will know where to find it. He knew that I had nothing to do with the safe, had no business to have, and he said "Those cards are in the safe." I don't know as to Mr. Schiff giving the cards to McWorth. I simply came back and reported that I had done what McWorth asked me to do. Mr. Schiff was present when I told McWorth. Both were there in the office. I reported back Mr. Frank's message in the presence of both Mr. Schiff and McWorth. I came back and reported the entire conversation. I don't remember whether Mr. Schiff went to the safe and got the matter at that time or not. Afterwards Whitfield came up and then McWorth told him what they had found, he was very much elated.

H.B. Pierce, for the defendant, testified as follows:

In 1913, at the time of the Mary Phagan murder, I was superintendent of the Atlanta office of the plaintiff. I had been superintendent since June 1911. I had been in their employ for 5 years prior to that time in Philadelphia.

Under the contract made with the defendant, there was no limit to the number of operatives that Mr. Scott could have put on the case other than as limited by Mr. Rosser, who was to be the arbitrator, and whose instructions were to control. There were 4 or 5 men on the case, including Mr. Scott and Mr. Whitfield. At one time, when the work was getting too heavy and we needed more help, I went to Mr. Montag and

suggested that it would be a good plan to put 2 or 3 more men to work. He referred me to Mr. Rosser and said whatever Mr. Rosser said would be all right, that he had charge of the case.

The history of the connection of the Pinkertons with the Phagan case is a long, long story as follows:

Mr. Scott was called down to the National Pencil Co. by someone there, who I was later informed was Mr. Frank, for the purpose of taking up the investigation of the murder of this little girl, Mary Phagan; I don't just recall whether I had been out of town, but I believe I had, I had just come from Chattanooga; I remember that on the morning, Sunday morning, the crime was discovered, I met George Bullard at Pryor and Marietta, and he mentioned the fact that somebody had been murdered on Forsyth Street, and I remember he asked me to go along with him, and I paid no attention to him, and went up to the office. During Monday, Mr. Scott was called during the morning, I believe I was out, and when he came back, he informed me of taking up this work, and on account of its importance, I later suggested to Mr. Scott that we had better go down and see Mr. Herbert Haas, whom I understood was the attorney for the National Pencil Co., and when I believe Mr. Scott had been referred to, our purpose for taking it up with him being to have an understanding with Mr. Haas as to just exactly how this work would be carried on. I didn't want there to be any questions on Mr. Haas' or anybody else's mind as to the agency's standing in the matter. Mr. Scott and I went to Mr. Haas' office, and informed him in a general way, that the agency had been employed by Mr. Frank or somebody connected with the National Pencil Co., to make this investigation, and that before the agency could undertake this work, it must be absolutely understood without any question about it at all that the only way the agency could accept the work would be absolutely along legitimate lines, it didn't make a particle of difference, of course, to us, who the blow fell on or anything else, that if there was any idea in his mind connected with the work, as to how it was going to be conducted, we had better have an understanding right now, that as far as the agency was concerned, there was going to be a clean, honest, legitimate investigation in every way, shape and form. Mr. Haas acquiesced in that and said that was all they desired, they wanted a clean, honest investigation, and they didn't expect to get anything else. The work was then turned over by me to Mr. Scott practically for sometime, as I was out of town a great deal, canvassing for the agency; he was the one that handled it, he having had a great deal of criminal experience, with a keen mind for that character of work. Of course, I only touched the work at that from time to time; for instance, I remember the fact that 2 or 3 days' reports would come to my desk, and I would go over them and revise them ready to be written up; expenses bills or other things of that kind would come to me, and I would go over them, and look and see that they were O.K. all right, and then pass them along; but the work generally was handled by Mr. Scott; there was very little interference from me.

As to the part I played in the discovery of the fact that Conley could write, operatives Whitfield and McWorth I think on Friday prior to May 18th, Sunday 18th, I think they brought into my office what was purported to be 2 or 3 contracts of some installment jewelry house here for watches that Conley had contracted for, and which contracts contained his signature, and I don't remember that Mr. Scott, I don't know whether he was out of the City then or not, I don't think he was, I believe he was busily engaged, but I suggested to Mr. Scott on Sunday morning that we go down to police headquarters and have Conley brought upstairs and questioned as to his ability to write. We did that about, I believe, ten o'clock Sunday morning: Officer Black was present, and Chief of Detectives Lanford was in his office; we had this man Conley brought upstairs; and when he was brought in, he was sat down at the end of a table, and I said to him, as my recollection goes, "now Jim, can you write? Or "Conley", can you write? either one of those statements, and he said "No sir, Boss" and I said "you can't write at all?" and he said "No sir." I was back of him at that time, and I showed him the contract, one of the contracts, and I said "Isn't that your name?" and he said "yes Sir", and I said "who wrote it?" and he said "I wrote it." And I said "I thought you said you couldn't write." "Well," he said, "that is, I thought you asked me if I was an expert writer. After that we got some paper and pencil, a scratch pad off the Chief's desk, and I took I think it was a paper engraving out of one of the Atlanta papers here that we had, and I dictated certain words out of that, at random, that is, not taking them connectedly. I suggested the word tall, the word black, the word himself and the word by and had him write those all out separately; the word himself he wrote hisself, spelling in his method of writing, with the exception that he made what you would call the capital S in printing, and I said to him several times, I said "Now, Jim, you make that other kind of "S", and he said "Boss, that is the only kind of S I know. So I kept pounding at him, and Mr. Scott, I think, pounded him, and Jim Black kept telling him that he could make another S, and finally he made that small S, that is, he wrote the word himself hisself in that particular word, and I think then we finally had him write the whole note out, "That long, tall, black negro did this by himself."

We picked up the scraps of that, and showed them to Chief Lanford, and I don't recall whether we left any there or not, I don't believe we did, he didn't seem to be very much interested. We took them away I believe, then Mr. Scott took charge of them and I am not sure whether the Grand Jury met the next day or not. I regarded that discovery as of vast importance, wonderful importance to me. As to whether I think there could have been anything more important in the case, well, I can't say just at that particular time, but as I think of the matter now I thought it was the biggest thing in it. I cannot answer as to whether it seemed to impress the others that way. As to how it seemed to impress Mr. Scott, I suppose he was impressed in a way. He did not notice particularly I don't think.

My recollection is not clear as to who it was that sent McWorth and Whitfield to the pencil factory. Long previous to that, I kept after

Mr. Scott to investigate this. Conley proposition more thoroughly, more generally, it seemed to my mind that there was entirely too much time being devoted to this one theory, this one line of investigation, there was no general investigation being made, and I kept after Mr. Scott to make more general investigation, to throw his lines out wider, and particularly on this Conley proposition, you understand, to get more about it, sift it out thoroughly. Now, whether Mr. Scott instructed Whitfield and McWorth, to make that search for those contracts for the writing. I won't be positive, I won't say positively as to that, but it is my recollection that I did, but I want to be positive in that, Mr. Scott may have done it. As to how Mr. Scott took my suggestions about a broader line of inquiry on Conley, he acquiesced in that suggestion, as far as his acquiescence went, but in the matter of the investigation it was my opinion that it did not go as broad as it should. As to what extent I thought he should have gone further, I believe he should have employed more men, put more men to work on it, and he should have given broader and more definite instructions about it, on a wider field, and devoted more of his time to it, and not just simply worked on this branch of the investigation. Mr. Scott was entirely interested in developing the Frank proposition. I won't say he seemed to be after Frank, he was developing that proposition. That was his theory. I believe Mr. Scott was after the man who was guilty, not after any particular thing. That is what he was employed to do. I communicated these views to Mr. Scott and he communicated his to me. We had our differences of opinion very frequently about the character of the investigation and its carrying on, we clashed very often. In that clash of opinions, Mr. Scott prevailed. Mr. Scott had the weight of opinion both with his superiors and with himself. By superiors, I mean his general superintendent and his other superior officers. Mr. Scott was then in correspondence with officers higher than myself and his course in working on the Frank angle met their approval. At times, I communicated with them also, as to what I said to them, well, more than a general correspondence in connection with the case, it is peculiar to the organization, that a great deal of that is left to the superintendent in charge and his general superintendent, as the case does in its natural course, as a rule, there is very little correspondence, and particularly no conclusions, that is one of the things that the agency rarely ever allows its officials to draw, haphazard, that is, conclusions, my correspondence on anything was after I developed opposition, you see; what I mean, to the course being taken.

As to that opposition, as I have already stated, it was my belief that a more thorough investigation should be made of the Conley end of that investigation, and that I believed that it had not been made; I believed that if it had been thoroughly made, there might have been something different developed.

I wrote those views to my superior, Mr. A.S. Cowerdin, the general superintendent of this division at New Orleans. I went over the case with him in detail and explained my views. He very politely replied that from the revealed facts and the reports that had been submitted,

and that were being rendered, it was his opinion that the investigation was being carried on in a proper way.

He disagreed with me and agreed with Mr. Scott. He was the superior of all of us in the Atlanta branch. New Orleans is the main office of this division, Houston and Atlanta are branches.

Mr. Scott and I frequently talked about the policy of the agency as to this case. We had several discussions on some matters bordering at time on quarrels, as to his theories or my theories, Mr. Scott was, I will say, very staunch and keen that his theory, he was satisfied his theory was right, and he believed that mine were all wrong; he, of course, had the matter of public opinion with him, whether that influenced him or not.

As to my remembering any expressions from him that indicated that he was influenced by public opinion, he was of the opinion that if so many people saw it that way, that is the way the case was being developed, that, in his opinion, must be right, against all other facts or anything else, regardless of facts. Yes, he thought the whole trend of his investigation must be right because so many people thought he was right, that was Mr. Scott's attitude. As to whether that is a sound theory of detective work, it is not a sound theory with me. I think there are some detectives that possibly may be influenced by public opinion and by the opinions of others. They may not think entirely by themselves. They must have theories that influence them. They think that because a theory is popular it must be the fact. A man may entertain a view like that without being dishonest. They are unconsciously influenced to accept that which is so generally accepted as right.

The accepted policy of the Pinkertons, as I was always taught it, was to work as much with the police department in criminal matters as was consistent with the work you were doing.

If in pursuing that policy, there developed an irreconcilable difference of opinion between the Pinkertons and the police, their attention is called to it first, and if that bore no results, we would either go on making investigation for our client, regardless of the theories of the police department or anybody else, or we would quit.

In the matter of the employment of additional men, when Mr. Montag had referred me to Mr. Rosser, I went to him and he told me to put on as many additional men as we thought necessary for the work. I think three were stipulated. Three additional men were put on, but the number was left to the agency's judgment.

If any of the Pinkerton men discovered that the work was getting too heavy for them, they should have put on more men to relieve the situation under pressure.

As to the method of the agency in making out its reports that were sent to the clients, the method of making such reports was to typewrite them and send them to the client. The procedure by which the report passed from the operative to the client was as follows:

An operative would make up a daily report, and turn it in to his official whom he was working under, and that official would revise it, probably first as its grammar and second as to relevant matter in it, and anything that he discovered, or if he discovered anything that he didn't think the client should know, or was not material, superfluous, or anything like that, he would what we call just cut it out, that is by placing brackets around that particular word, sentence or paragraph, and it was then sent to the stenographer, and he wrote it up with the exception of those abrogated portions of the report.

If two men were working together on a certain angle of the case, and one of them in his original report stated a certain fact which was material to the case, and the other man in making his report did not refer to it, that would not be a reason for cutting out the reference to that fact in the report sent to the client.

The policy of the Pinkertons is to make only written reports to clients. These reports cover everything done by the investigators on the work. Sometimes, in important cases, where the clients wants immediate information or wants it as soon as the official gets it, we may communicate it to our client, but that is immediately followed by a complete written report. In fact, it might include the very fact that this matter was reported verbally to the client. The policy of the company is to have all its communications with its clients in writing.

Cross Examination.

It is the policy of the official having charge of the operatives' reports to call out the parts which, in his judgment, are immaterial. I could not say, I do not know, that anything material has been eliminated from any report in this case.

At one time in the case, I conceived that it was necessary to put on additional men. I went first to Mr. Montag and he referred me to Mr. Rosser. He told me to put on the two men, Whitfield and McWorth, who were then being considered, and to put on any other men that in my judgment were necessary, or in the judgment of the Agency, and I did that, I did not work on the case myself. Technically, as superintendent, I was in charge of it. I did not neglect my duties as superintendent.

As to my having had any interview with the defendant or any of its officers relative to the bill in the very beginning, I could not say whether it was in the beginning, but I believe that during the time of the investigation, or immediately after, I saw Mr. Herbert Haas two or three times about it and I also saw Mr. Luther Rosser several times

just after the investigation had been completed. I never saw Mr. Montag with reference to collecting the bills. I went to Mr. Montag for a guarantee of the contract. In substance I said to Mr. Montag that we believed that the work would assume such proportions at that time that I thought it was necessary to put on additional men; I believe, too, that he questioned the expense, what it was going to cost per diem, and I told him the approximate amount that I thought per day, and he was fairly reticent. Mr. Montag didn't seem to care to talk very much at all about it, and he finally told me to go to see Mr. Luther Rosser, that he had charge of the matter, and whatever Mr. Luther Rosser instructed I was authorized to go ahead and do, as far as the National Pencil Company was concerned.

After we had operated several weeks on the case, I went and saw Mr. Herbert Haas, in his office. I requested the payment of the amount earned up to that time and that was my sole purpose in seeing him. He promised to look into it and endeavor to secure me a check. I cannot say that he promised to pay it, not in so many words. He may have, I don't remember now. I would have quit if I had thought he was not going to send a check. I recall one time Mr. Scott and I going over to see Mr. Haas about the bills. Mr. Scott was I were in the Fourth National Bank, I believe talking to Frank Berry, and Mr. Haas came up, and I thought that was a pretty good time to take a crack at him about the bill, and I asked him when we were going to get a check, and Mr. Haas said I believe at that time, that he would send us a check for the amount in about two or three days.

While I was connected with the Agency, it received no payment on this account.

I approved the operatives expense bills as they came through not all, but as they came to my desk in the absence of Mr. Scott. Either he or I did this.

There was complaint about the payment of this bill just immediately before I severed my connection with the agency during the month of August, 1913. I think the trial had just about been concluded at that time. I went to Mr. Luther Rosser about that time for the purpose of securing the bill, and Mr. Rosser then complained that he did not think that the National Pencil Company should be called upon to pay that bill and stated his reason. That was the first complaint I remember. Mr. Haas promise was made several weeks before that.

Mr. Scott was assistant superintendent at the time of the trial of the case. He was a man of practical experience in criminal investigations, with a keen head for that work, and as such, I put him in charge of the details of that work. On the account rendered client, there is no charge for time put upon the case by myself. That does not indicate that I did not do some work on the case. I may go out and spend half a day or three quarters of a day or something like that in connection with that or any other operation, which I would not charge for, I would probably put that in sometimes as good measure, you might say;

practically all our officials do. In this case, there was no charge for my services that I know of.

Re-Direct Examination.

The conversation with Mr. Haas, that I have referred to took place before the trial, I was not in Atlanta during the trial. I recall the conversation between Mr. Rosser, Mr. Scott myself and others just prior to the trial. Mr. Rosser knew my opinion and Mr. Scott's stated to Mr. Brandon, after a discussion pro and con of the various phases of the investigation and the conclusions, that, regardless of the opinions we had, there were two men in jail, and we were both of the opinion that one of these two men was guilty of that crime. I stated my opinion outright which was that the negro Conley was guilty. I do not believe Mr. Scott expressed an opinion. I believed he differed with me.

As to why it was that I left the employ of the Pinkerton Detective Agency, I am very glad you asked that question, I understand that Mr. Scott did testify yesterday, first that I was discharged, and later in his testimony that I had been requested to resign, now, the fact of the matter is that I was never discharged from the Pinkerton's National Detective Agency, I was never requested by anybody in Pinkerton's National Detective Agency to resign, and up to that very second that I accepted my present employment when General Superintendent Cowardin was with me, at the time, I had the refusal of the superintendency of the Philadelphia office.

I have been in the business of investigation work as a detective about fourteen years. I have been with the Pinkertons about seven, In my opinion, as an expert, as to whether or not the plaintiff did or did not render competent and accurate service in this matter, I would say that there were certain features of that work that were not to my mind as fully carried out as I thought they should have been. I believe the Conley feature the Conley connection with that crime was never as fully investigated as it should have been. After the discovery of the fact that Conley had written those murder notes, I was of the opinion that this phase of the case had not been given all the attention it should have been. I believed that it was not followed out as carefully under the Pinkerton method as it should have been.

After I had sent in my resignation to the Pinkertons, my relations were friendly. I am a patron of the Pinkerton National Detective Agency, at this time. I have employed the Agency continuously ever since. My relations with them are very pleasant, pleasant absolutely. After I had resigned, I accompanied Mr. Cowardin, at his request, to Mr. Rosser's office in an endeavor to collect that bill, and Mr. Rosser at that time stated his reason why he did not believe the bill should be paid.

As to Mr. Rosser's reason for not paying the bill, he stated that it was his belief that that bill should not be paid on the view that he

took of Mr. Scott's attitude, that he believed he stated, that in view of Mr. Scott's attitude during the trial and in the light of other things that had occurred which he stated came up during the trial, or that first came to his notice during that period, did not justify the company in paying that bill, he didn't think the pencil company should be called on to pay it.

Re-Cross Examination.

I was of the opinion that there should have been a more general investigation of Conley's whereabouts and his connections, Mr. Scott's time was mostly devoted to his investigation in and around police headquarters, and running out phases with the city officers, he, of course, could not be all over the city of Atlanta, but I mean those who were under his direction, being in charge of the operations, and I being away practically all the time, it was my opinion afterwards, I don't say at that particular time, because I had full faith in Mr. Scott's ability, that after the review of it, after seeing what had been done and what had not been done, I was of the opinion that there were a good many things, quite a number of things connected with Conley's connection with the case that should have been run out afterwards. It was probably during the starting end of the investigation and during the trial of Frank, and afterwards I realized early in the game the enormity of this investigation and went down and asked Mr. Montag for more men. I was after \$8.00 per day per man Mr. Rosser to whom Mr. Montag referred me, said put on as many men as I pleased, as many as I thought were necessary. I put on two men. I didn't believe more were necessary at that time. I reckon Mr. Scott knew more than anybody else about what was necessary at that time. I detailed and increased the number of men on that job to the number I thought necessary.

I did not have the reputation of being a strict superintendent and disciplinarian. I had the name of being somewhat of an easy boss. I had my method of handling men which I thought was the right one. As to whether if I had thought any man was shirking his duty on that case, I would have fired him, the fact is, as I have repeatedly stated, I was so seldom directly connected with that case that I didn't know but very little about it. It is true that I was so little connected with the case that there is not one five cents charged for my services. My opinion about the case is not from work actually done, but just from hearsay. I never saw Conley but once. It was down at police headquarters one Sunday morning. As to why, if I thought Conley's actions and whereabouts should have been run out, why I did not go ahead and do it, if I thought anything was being neglected. I had other things to do and I had other men attending to that. I mean Whitfield and McWorth and I turned them over to Mr. Scott and he had just as much authority, of course, to put on men or detail men on other work and to direct their work as I had. Yes, I went to the people and asked for additional men and they gave me those two. I believe there were other men. Hannon and Peace were put on. Mr. Scott was finally cut off by the City detectives from interviewing Conley. I

sent Mr. Scott down to police headquarters with instructions to stay with Conley until hell froze over. They finally moved him over to the tower. I believe it was to get him away from the Pinkertons. I think that had a good deal to do with it. Mr. Scott told me they would not permit him to see him. I directed Mr. Scott to go down there and stay with Conley and get a full statement from him. They took him away. I don't know whether further efforts were made to get to him after he was put in jail. I believe that Mr. Scott knew how to handle men on work of this kind, and that he was a keen man for criminal work.

Further Direct Examination.

I regarded the one interview that I had with Conley as being of the greatest importance. To my mind, there was no more important interview with Conley in the whole case. To my mind that was the critical point in the case. The crux of the whole thing.

Mr. Scott had an absolute right, without instructions from me or anybody else to put more men to work on the case, if he needed them.

Further Re-Cross Examination.

I think it was on Sunday, May 18th, that I interviewed Conley at police headquarters. That was the time he first wrote.

Mr. Scott and I went down to police headquarters after Mr. Scott's return to Atlanta. Men were put on the case to run down the affidavits made by Conley.

L. Z. Rosser, for the defendant, testified:

At no time prior to the trial of the Frank case, was I informed verbally by Mr. Scott, assistant superintendent of the Pinkertons, that he intended to change the testimony that he gave at the Coroner's inquest and the information that he gave me in his reports as to the matter of Frank's saying "no" or "I don't know" to Mary Phagan when she asked about the metal.

Mr. Scott gave me no information that he had intentionally or through carelessness or inadvertance omitted from his original reports sent me the fact that in the night interview between Frank and Lee on the night of April 29th, at police headquarters that he and John Black had heard the latter part of the conversation and that Frank exhibited great nervousness on that occasion. We knew nothing about that, and received no information about that. He made no report as to that matter. He told me nothing except that which is in the written report.

Neither Mr. Scott nor any of the Pinkertons gave me any oral report, that they had gotten the information that Conley could write through Leo M. Frank.

Mr. Scott has no oral report as to the manner in which the affidavit of May 24th, May 28th, and May 29th, were obtained from Conley, and the method that he and Black employed in getting those affidavits. He might have mentioned the affidavits to me in a usual conversation, but I answer emphatically "no" that he did not tell me the methods employed by him in getting them. He never told me that he and Chief Lanford had pointed out to Conley that certain things would not fit; that certain things were unreasonable and improbable and that he would have to do better. I never heard of that only as Mr. Scott told it as he went on the stand. In my opinion, as an attorney, it was material that I should have known how those affidavits were obtained in advance so as to give me an opportunity to prepare with reference to those statements.

In my opinion, as an attorney, it was material that I should have known beforehand the information that the Pinkertons had that Leo Frank had said that Conley could write, and that information should have been given to me by the Pinkertons from an independent source. I learned that they had given the information that Frank claimed to have given the information. I had that information from the outside. Whether he did, I didn't know that he had given the impression. I did not have the information that was the source of the Pinkertons knowledge from the Pinkertons indeed. I don't know whether they ever admitted that they got it from Frank.

Q. When Mr. Scott took his stand at the trial and testified that he has gotten the information about Conley writing from sources entirely disconnected from the pencil factory, would it or would it not have been material to you? A. Oh, quite.

Q. To have know that the Pinkertons themselves. A. Sure.

Q. Had gotten that information? A. I could have then had the opportunity to disprove their statements if I was able to do so.

Q. You could have disproved it by their own reports, couldn't you if Mr. Scott, had-- A. If they had reported to me, I could have shown it in their reports, of course.

Q. Yes, if it was in that report that they got it from Leo Frank? A. If they had given me that information I could have just handed it up to him, and said: "What did you report that to me for?"

Cross Examination.

These people reported to me frequently and continuously in writing. Mr. Pierce nor any other official of the agency never suggested to me that they needed more help on the case. I did not undertake Mr. Alston to direct the Pinkerton operations, nor the operations of any detective in the Frank case, I was undertaking to do the law work, and never undertook to do that, and they never made any suggestion that they needed more help to me, and they would not have made it to me, I

take it for granted I did not employ them, and I did not pay them, and I was not the man that they were likely to come to. I never had the opinion that Mr. Scott was much my witness. I don't remember whether we had a formal conference with him prior to the trial for the purpose of ascertaining the line of his evidence. He had furnished me in writing with everything that he was supposed to know about the case, and I took it for granted I was getting everything he knew in writing. I saw no necessity for such a conference I won't say we did not talk about the case before the trial. I always understood he and Mr. Pierce were in charge of the investigation I didn't know which it was Pierce was supt., and Scott Asst. Supt.

As to what effect the matters which I have testified were material had on the final outcome of the trial. I cannot say, of course, what influenced the brain of any particular juror, I couldn't know that, but I do know that it was exceedingly material to furnish some excuse for Frank to go from the front of the building to the back of the building with that little girl, I do know, if when she asked him if the metal had come, Frank had answered "no" that would have furnished no excuse to go back, I do know that if he had answered "I don't know", that might have been some excuse for him to go back and investigate, and as a lawyer, I know that was material. I cannot say what effect it had on the trial, except I know what it ought to have had. Any honest juror ought to have considered that question as a material matter.

The reports that came to me were more or less voluminous. They were supposed to give me a complete and correct statement of the investigation to the Pinkertons. As to why, although the chief investigator of the Pinkertons was making these reports, I did not have a conference with him as to what his line of testimony at the trial would be, I think I have already stated, and I don't mind stating it again, that I never understood that it was necessary for a man who had been reporting to me in writing for several months, or a long time, and who was under instructions and obligations to give me everything he had, that I had to go to him and get an oral statement from him as to what he would testify to on the trial; I supposed that I was safe in assuming that he would testify from that writing. I did not feel that there was any necessity for me to talk to him. I had those reports before me at the time.

Mr. Scott never made any effort to get a conference with the attorneys for the defense before the trial. I did not know that Mr. Scott had any opinion about the case that had not been communicated to me, he was a very intelligent man, and everything he knew was supposed to have been put in writing in the reports, that he had made to me, and I supposed that those reports were true, if I had thought that Mr. Scott was going to testify anything different from what was in the writings that had been submitted to me, I would have wanted to talk to him.

I do not care to testify against the record. As to whether these people reported or did not report to me, the records will speak for

themselves. As to whether or not I was specially concerned as to the methods that a detective might use, as to how he would go at a discovery of things connected with the case, or how he would get affidavits or any other information, I think it would be of the most material importance, if I should take a case, and an affidavit was to be introduced it would be of the highest importance for me to know whether that man gave it voluntarily or whether a policeman coerced him into making it. I think that would be of the greatest materiality, because then I could determine how valuable it was or how little value ought to be given to it, I think it was of the highest importance. I think the detective who was reporting to me should have given me that information fully. I don't think he ought to have told me all he did, every move he made, and all that, but what an affidavit was to be used as a basis for conviction, and that affidavit was gotten by saying again and again to the man who made it, that that is not the truth, and this is better, and then he changes it to meet the opinion of the detective, as to what is better, and he says "Does that do?" and they go on and say "Well, this will be better, this is better, and that was exactly the statement that was made on the trial by Mr. Scott that that was the way the affidavit was secured, I think I ought to have known that I don't think any lawyer would differ with me. I understood the object of Mr. Scott was to make that man confess and there were four separate and distinct affidavits turned over to me. I heard that after the fourth affidavit was gotten, they (the city authorities) denied him further access to Conley.

I never understood that Mr. Scott in getting those affidavits from Conley on May 24th, 28th and 29th, was trying to get him to confess that he was the principal in that murder. I had very little information as to how Scott got those affidavits. I learned all I know about it at the trial, where all these things were thrown suddenly at me.

Cross Examination.

I never talked to the Pinkertons about their purpose in trying to get these affidavits from Conley and did not know what their purpose was. I, of course, wanted them to interview Conley, I never undertook to dictate how the detectives should operate, I wasn't connected with the detective department, and I didn't pretend to have any skill in that line, and I had nothing to do, as I said awhile ago, with the detectives, except to receive their reports, nor with any detective at all, I had nothing to do with that part of the case except that I was to receive the information that I was to get from them in preparing the case for trial. Mr. Scott gave me almost daily reports, at least sometimes they were daily, I had very frequently reports and I had understood always that the plan of the detectives was to make reports in writing, and I looked for them in writing. It was impossible for me to tell what the purpose of Mr. Scott or any man might be, so far as that is concerned in doing any particular thing in getting those affidavits. I don't remember that the attorneys for the defense ever gave Mr. Scott instructions to go down and endeavor to have a final

talk with the negro Conley. I had not questioned that, after Mr. Scott had gotten four or these affidavits in succession, I would have thought it wise for him to get about fifteen more, if he could have drawn that many, and without undertaking to direct Mr. Scott, which I would not have done, I might have said that a negro who would give four, who could write four right along like that, could give four thousand and four hundred and forty four just as well.

As to my recalling asking Mr. Scott to go down there and try to get another affidavit, if I said anything to Mr. Scott about it, or if he asked me about it, I probably told him I thought it would be a wise thing. Mr. Scott, my recollection is, expressed the opinion about that time, that the negro had already delivered himself to the limit, and that he had told the whole truth, and if he had there would have been no necessity of bothering him any more.

I have no doubt that he probably reported to me that the negro had been removed where he could not get to him. I am sure I gave him instructions, but believing myself to be fairly sane, if I could see a negro trot off four affidavits in succession like that, and four different ones like they were, I would have been pretty well satisfied that he would have trotted off four thousand four hundred and four as easy.

I don't know what Mr. Scott was trying to do, he expressed no opinions to me after that final affidavit was obtained, as to whether he wanted any more or not. I know, if I had been a detective I would have gotten just as many as he would have turned out, but as I am not much of a detective, I don't know whether that would be wise or not.

Further Direct Examination.

I don't know anything about the methods of Mr. Scott in getting the affidavits except as he testified to at the trial.

Herbert Schiff, for the defendant, testified:

I am at present superintendent of the National Pencil Company. I was appointed to that position after April 26th, 1913. I recall the Pinkerton operatives, McWorth and Whitfield, coming down to the factory in the investigation of the crime, I remember the occasion when they came down there and inquired whether or not Conley could write, I think it was early in the month of May. I don't remember exactly what day, that Whitfield and McWorth came to the factory, and asked me if I knew Conley could write, I told them I did; my reason for thinking that was, Conley had written notes to the office on many occasions for loans of money, and had borrowed paper to carry in the basement and write. I then started at their request to try to find some specimens of Conley's writing, but was unable to find it. I don't know whether Leo Gottheimer was in the office at that time, or whether he came in during our conversation, and I think Mr. McWorth took him out into the larger office and suggested that we send him down to the

Tower and see Mr. Frank, and he left, and I continued to look for specimens of Conley's hand writing. Later I remember that Conley had bought a watch, and the installments had been paid to a man who had visited the office once every week, and I looked into the safe, into a little box where we kept such papers, and there I found a card of a jewelry store on Mitchell street, and I gave this card to McWorth, and in the meantime Whitfield had left, had gone out, I don't know where, and he returned, and told McWorth of the card, and they left together then.

The report made to these operatives by the messenger who had gone over to the Tower was that Mr. Frank stated that Conley could write, and that there was a card in the safe that would show where he had signed papers for the receipt of this jewelry, and these jewelry people would be able to show the specimen of his signature.

At that time, neither I nor any of the officers or agents of this National Pencil Company knew that Conley was denying that he could write. That was the first I knew of it, the morning they asked me.

McWorth and Whitfield spoke to me about the conditions in their Atlanta office in regard to the investigations of the Phagan murder. They visited my office very frequently and on several occasions they told me of the dissention in the office, and of the things that they put up that never seemed to agree with Mr. Scott, and Whitfield told me on one occasion that Mr. Scott called him into the private office and told him that if Leo Frank wasn't convicted it would be the last of the Pinkerton agency in Atlanta. They were at the factory numerous times. They were making a number of investigations. They examined the place, the building, and took statements from the employees.

Cross Examination.

The National Pencil Company is operating over there. The place is marked up for rent. We are working about thirty five of forty people at one plant and the other plant is running full. That is here in Atlanta. We are not going to move to Richmond or Chattanooga.

Whitfield told me that Scott took him into his private office, and told him that if Frank was not convicted it would be the end of the Pinkertons in Atlanta. As to whether I have been waiting until today to tell that, as to whether I testified at the Frank trial, yes, sir, I was not questioned about that at the trial.

Re-Direct Examination.

It was not a case of the attitude of the plaintiff toward me and the defendant. It was a case of so many things happening, that if I had reported everything that occurred, I would have been on the stand yet.

This question of the Pinkertons being paid has never come up to me before, nor the correctness of their bill. It was not presented to me nor have I ever been consulted with by any of the attorneys about it.

Re-Cross Examination.

There were so many reports rendered that I would have been busy running back over them yet. I saw no reason not to believe what Whitfield and McWorth told me, that if Frank was not convicted the detective agency would be out of business. As to whether I did not think it obligatory on me to carry that information to Mr. Rosser or anybody else, or divulge it at the trial, there were many other things I did not divulge. As to whether here at this late day I come down and say that Whitfield told me that unless Frank was convicted the Pinkerton's would be out of business here yes, that is a fact. If the bill had been presented to me, I would not have had authority to pay it. I would not have paid it.

Edward Crusselle, for the defendant, testified as follows:

I am a public reporter and general stenographer, I have been in that business fifteen years. I took the evidence at the coroner's inquest in the case of the State V. Leo M. Frank. The document that you presented me is the report of the testimony taken before the Coroner of Fulton County upon the inquest as to the death of Mary Phagan reported by myself as the reporter engaged by the coroner for that purpose. It was accurately taken.

Britt Craig, for the defendant, testified.

I am on the staff of the Atlanta Constitution, and will have been for five years next March. I write some special stuff sometimes. I wrote the article in the Constitution of July 13, 1913, which you show me. There are parts of it that were not obtained from any source at all. You will notice in the lead here where it is just a sort of dissertation on a hunch. I got it from conversations and gossip round about Police Headquarters. I can not say that Mr. Scott gave me any of the information in that article. The article was not from an interview with Mr. Scott.

John Black, for plaintiff in rebuttal testified:

I am a plain clothes policeman. I recollect the investigation of the Mary Phagan murder. Mr. Scott worked with me in this case. I was working for the City. Mr. Scott and I worked constantly together. I interviewed Conley when he was under arrest. To a certain extent access to Conley was denied to me and Mr. Scott. It was after Conley had made his first statement. After his first statement, I never personally interviewed Conley with Mr. Scott. That was the time he said he could write. Mr. Scott was present when he did the first writing.

As to how he happened to write, we got the information that he could write, and then we carried him up there and then he finally admitted he could write. We had him up several times and he made out like he could not write. Mr. Scott was present trying to get him to write. I think Chief Lanford was also present.

The object of these interviews with Conley was to find out who had written the notes found in the Pencil Factory. We were endeavoring to get a confession from Conley. Mr. Scott took part in that effort. Mr. Scott was pretty busy in those days investigating the case. We worked from seven or eight o'clock in the morning to as late as twelve o'clock at night sometimes.

Cross Examination.

I have been in the police business with the City department about nine years. I am forty five I have had experience around the City here as a police officer and have had a good deal of work to do.

As to Conley's movements, I know that he was at police headquarters for two or three weeks and then he was put in jail. They got an order from Judge Roan and brought him back to police headquarters. I was not present at the time that Conley was brought back to police headquarters and turned out on the sidewalk and then rearrested. I cannot say how long Conley was in jail.

As to my knowing why it was that I and Mr. Scott were taken off the Conley side of the case and Starnes and Campbell were put on in our place, Campbell and Starnes were put on the case immediately after Jim Conley was arrested; Mr. Scott came to police headquarters and he said that the Pinkerton Detective Agency had been employed by the pencil factory, and he wanted to work in conjunction with the police department, he stated it was their rule that anything they worked on, and of course that has always been the understanding, if they were working on anything, we were to know it, we were to know the men, and have the names of all the men that were on it, it is known that all over the country, and my experience is, and I have been around several places where they have agencies, that they are always on good terms with the police department. Chief Beavers and Chief Lanford detailed me to work with Scott.

Burns made a speech down at the Auditorium one night previous to this time, and stated that he was the only honest private detective in the world, and of course we want to do the right thing here, our crowd does, we are working for the City and for the public, getting our little salaries, we don't get anything from citizens only the tax money, it seemed we didn't I say we, Chief Beavers didn't know the Pinkertons were going to the fair with us or not, and I was detailed to work with Scott; the information that I got was to be reported to our department, Stearns and Campbell wasn't to report anything that they would get to the Pinkertons, and of course I was instructed from time to time about what was going on; Scott didn't know what Starnes

and Campbell was doing, and I was never debarred from seeing Jim Conley; I didn't see Jim Conley any more after the first interview, I left here on Friday night after the interview with Jim Conley on Friday morning, if you remember, that was the first time he ever admitted he could write, you remember the instance where this old lady out here beyond the Federal Prison, her house burned down, and at that time we suspected her son, and I left to go to Chattanooga on Friday night in regard to that case, and I think I returned on the following Tuesday, or Tuesday night, and I brought those two boys back from Chattanooga that they suspected of killing this boy that killed his mother and suspected him of burning the house down, and I never had another interview with Jim Conley in the presence of Scott.

Afterwards, from time to time, I saw Conley at the station house, not in Scott's presence. I don't recall whether I talked to him after May 30th, or not. I could have talked to him but I wanted to be fair with Scott. He seemed to be working there with us and I didn't want to take advantage when Scott had been debarred from seeing Conley. I knew what was going on all the time through the police department from Chief Lanford, Starnes and Campbell. If Scott wanted to give me facts, it would have been foolish for me not to have taken them. I would not say that the police department took Scott into their confidence. I did, I had absolute confidence in him, but Chief Lanford put two other men to work on the case and they did not communicate with Scott. Well, I don't think they ever found out anything we didn't find out I'll say, I know they didn't. They did not produce anything in court that we didn't have already, Chief Lanford took two of his men and put them to work on the case under instructions not to communicate with Scott and Scott was well aware of what was going on. He was well aware that there were other men working. We talked with them from time to time and they talked with Scott, but they were under instructions that if they found anything that we didn't find, it was not to be communicated to Scott, but they never sprung anything new in Court. I saw the original murder notes. I would not swear that those papers shown me are the original notes. I had the originals in my hand at one time. It was on the Sunday morning following the crime which was supposed to have been committed on Saturday.

I saw them again after that several times, and compared Jim Conley's handwriting with them a lot of times, I say a lot of times; on one occasion I remember very distinctly, it was the Friday morning that he first admitted that he could write. The original notes were down there at police headquarters at that time. I don't know when they were put in the Solicitor's charge. I saw the notes at the time that we made Conley write, and we compared them with his handwriting. Mr. Scott was with us.

We had copies of the reports the Pinkertons made to the National Pencil Company. I am not sure we had every one of them, but I think we did. My chief had a copy every day of the work. Occasionally I would look them over. In my way of thinking, I thought the work was reported very accurately. It was correct as to the work we had done as far as I

was concerned, in the work I was doing with Scott, I should have said I did not notice any discrepancies between those reports and the testimony of Mr. Scott at the trial.

Re-Direct Examination.

I would not swear that the papers shown me are the original notes. I think they are.

The first time that Conley admitted that he could write, I don't think there was anybody there but Mr. Scott and Chief Lanford and myself.

As to whether I know whether Mr. Scott saw the original murder notes that morning or not, yes sir, I think he did. I am almost positive they were there and we compared the notes with Conley's handwriting. The notes had been printed in the newspapers. The newspapers were there at the time we were trying to get this writing. I won't be positive whether Mr. Scott actually saw the original murder notes or some newspaper copies.

I understand that Mr. Scott was cut off by Chief Lanford or Chief Beavers from seeing Conley after he had got four affidavits out of him. It was the practice of the prison there to say that a man should or should not see certain people as occasion arose. Mr. Scott succeeded in seeing Conley at least three times after the interview that we had with him together. I don't know how many other occasions that he may have seen him. I was in Chattanooga at the time.

Harry Scott, for plaintiff in rebuttal, testified:

As to the testimony of Mr. Pierce about the employment of men, etc., and Mr. Rosser's evidence, as far as Mr. Pierce's end of the investigation was concerned, he left the matter entirely in my hands, and it was up to me to detail the men, instruct the men, and he knew very little of the minute details of the case, so he is not in a position to qualify as an expert on anything regarding the Frank case, or really my work on the case. Now, as far as Col. Luther Rosser's statement is concerned. I had various conferences with him, for instance, to show my interest in the investigation I first went to him and pleaded with him to allow me to let Conley face Frank, and he said "I would rather you not do that;" well, I said "If you want me to run down this crime, you ought to let me do it." That was one of the first interviews I had with Luther Rosser to show my aim in the matter was to get at the truth and the truth only. Towards the close of the investigation, or I should say the week before the trial, Luther Rosser and Reuben Arnold both requested me to go down to Solicitor Dorsey, they knew at that time that I was subpoenaed by the state, and they told me to go down and see Solicitor Dorsey, and learn what evidence he wanted to obtain from me, and come back and report to them, and they would then discuss with me the evidence that they themselves wanted me to testify to. I made every effort of course I went down to see Solicitor Dorsey, and I made every effort to bring

about that interview, and I called Mr Rosser up and asked him when he could see me, and he was too busy that day, he couldn't see me; then I communicated with Herbert Haas, and I said to him "You see Col. Rosser, and tell him that I know what Mr. Dorsey wants me to say "but he saw fit to disregard it. Now, I was simply arriving at the truth, but they would not give me their cooperation in helping me to do that.

As to the statement of Mr. Schiff about my conversation with Whitfield, that statement made by Mr. Schiff in reference to my making the statement that I was afraid of the Pinkerton's position in Atlanta, that we would be run out of town if I took any stand other than Frank, is absolutely ridiculous, and without any foundation in truth.

I heard Mr. Schiff's testimony at the trial. He did not give such evidence there. I don't know where Whitfield is. He went with the Burns agency, he was discharged by the Pinkertons. During the investigation, we discharged Whitfield for going out to Marietta one Sunday morning and making a stump speech, declaring that he was a Pinkerton man, working for Scott, and that the Pinkertons were going to get Conley and Conley only, there was nothing to Frank, and a reporter there for the Journal named Carter, told him he had better get the first car back to Atlanta, because the crowd was going to get after him, and he did so, and we made an immediate investigation in Marietta to determine if that was true, and discharged Whitfield.

McWorth is now the manager of the Burns agency at Montreal, Canada, or connected with that office. He was manager, but I understand he is traveling for them now.

As to Black's testimony about seeing the murder notes, at the station house, positively I did not see those notes. I have never seen them. Neither Starnes nor Campbell showed them to me.

Cross Examination.

I heard Mr. Schiff's testimony at the trial. I sat with the Solicitor there for quite a while after I was let out by the defense, they allowed me to sit there.

In addition to the foregoing, there was also an agreement of counsel that the time sheets of the Pinkerton National Detective Agency kept by Assistant Superintendent Harry Scott, and stated by him to be complete accurate and correct in every particular, and the original expense bills of operatives marked receipts by them which were put in evidence by the plaintiff, bore out and verified in every respect the account of the plaintiff attached to its petition, and showed the same to be accurate, complete and correct.

The plaintiff also put in evidence the reports rendered by the plaintiff to the defendant bearing on their work in the investigation

of the murder of Mary Phagan. A tabulated statement of said reports follows:

In the first column is stated the number of the report, in the second column, the name of the operative making the report; in the third column, the date of the report, in the fourth column, the date when the report was sent to the defendant, and in the fifth column, the number of typewritten pages covered by the report.